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UNITED STATES. No. 3 (1892).

FURTHER CORRESPONDENCE

RESPECTING THE

BEHRING SEA SEAL FISHERIES.

[In continuation of "United States No. 2 (1891):" C. 6368; and including the Papers contained in "United States Nos. 1 and 2 (1892):" C. 6633 and 6634.]

*Presented to both Houses of Parliament by Command of Her Majesty.
April 1892.*

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LONDON:
PRINTED FOR HER MAJESTY'S STATIONERY OFFICE
BY HARRISON AND SONS, ST. MARTIN'S LANE,
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Further Correspondence respecting the Behring Sea Seal Fisheries.

[In continuation of "United States No. 2 (1891):" C. 6368.]

No. 1.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received April 27.)

My Lord,

Washington, April 15, 1891.

I HAVE the honour to transmit herewith a copy of a note which I received yesterday from Mr. Blaine in reply to your Lordship's despatch of the 21st February last,* of which I left a copy in his hands on the 3rd March.

In this note Mr. Blaine states that the modifications suggested by your Lordship in the questions for arbitration do not wholly meet the views of the President, and he sets out the questions in the form in which they are now proposed by him.

For convenience of reference, I inclose a paper showing, in opposite columns, the original six questions suggested by Mr. Blaine in his note of the 17th December last, and the questions, as altered and now proposed by him, on behalf of the United States' Government. In his note transmitted herewith Mr. Blaine reverts to several points which have been long under discussion, and adduces further arguments in support of his contentions.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

Inclosure 1 in No. 1.

Mr. Blaine to Sir J. Pouncefote.

Sir,

Department of State, Washington, April 14, 1891.

THE modifications which Lord Salisbury suggests in the questions for arbitration do not wholly meet the views of the President, but the President changes the text of the third and fifth in such manner, it is hoped, as will result in an agreement between the two Governments. While Lord Salisbury suggests a different mode of procedure from that embodied in the sixth question, the President does not understand him actually to object to the question, and he therefore assumes that it is agreed to.

The six questions as now proposed by the President are as follows:—

1. What exclusive jurisdiction in the sea now known as the Behring's Sea, and what exclusive rights in the seal fisheries therein, did Russia assert and exercise prior and up to the time of the cession of Alaska to the United States?
2. How far were these claims of jurisdiction as to the seal fisheries recognized and conceded by Great Britain?
3. Was the body of water now known as the Behring's Sea included in the phrase "Pacific Ocean," as used in the Treaty of 1825 between Great Britain and Russia, and what rights, if any, in the Behring's Sea were held and exclusively exercised by Russia after said Treaty?

4. Did not all the rights of Russia as to jurisdiction and as to the seal fisheries in the Behring's Sea east of the water boundary in the Treaty between the United States and Russia of the 30th March, 1867, pass unimpaired to the United States under that Treaty?

5. Has the United States any right, and, if so, what right, of protection or property in the fur-seals frequenting the islands of the United States in Behring's Sea when such seals are found outside the ordinary 3-mile limit?

6. If the determination of the foregoing questions shall leave the subject in such position that the concurrence of Great Britain is necessary in prescribing Regulations for the killing of the fur-seal in any part of the waters of Behring's Sea, then it shall be further determined (1) how far, if at all, outside the ordinary territorial limits it is necessary that the United States should exercise an exclusive jurisdiction in order to protect the seal for the time living upon the islands of the United States, and feeding therefrom? (2) whether a close season (during which the killing of seals in the waters of Behring's Sea outside the ordinary territorial limits shall be prohibited) is necessary to save the seal-fishing industry, so valuable and important to mankind, from deterioration or destruction; and, if so, (3) what months or parts of months should be included in such season, and over what waters it should extend?

The President does not object to the additional question respecting alleged damages to English ships proposed by Lord Salisbury, if one condition can be added, namely, that after the issues of the arbitration are joined, if the United States shall prevail, all the seals taken by Canadian vessels during the period shall be paid for at the ordinary price for which skins are sold. This seems to the President to be the complement of Lord Salisbury's proposition, and he doubts not that it will secure his Lordship's assent. In the first paragraph of Lord Salisbury's despatch of the 21st February he makes the following declaration:—

"It is now quite clear that the advisers of the President do not claim Behring's Sea as *mare clausum*, and, indeed, that they repudiate that contention in express terms."

Lord Salisbury's expression is put in such form as to imply (whether he so intended I know not) that the United States had hitherto been resting its contention upon the fact that the Behring's Sea was *mare clausum*. If that was his intention, it would have been well for his Lordship to specify wherein the United States ever made the assertion. The emphatic denial in my despatch of the 17th December last was intended to put an end to the iteration of the charge, and to eliminate it from the current discussion.

Lord Salisbury complains that I did not deal with certain protests, written by Lord Londonderry and the Duke of Wellington in 1822, which he had before quoted. If he will recur to the 26th and 27th pages of my despatch of the 17th December, he will observe that I specially dealt with these; that I maintained, and, I think, proved from the text that there was not a single word in those protests referring to the Behring's Sea, but that they referred, in the language of the Duke of Wellington of the 17th October, 1822, only to the lands "extending along the shores of the Pacific Ocean from latitude 49° to latitude 60° north. In the first paragraph of Lord Londonderry's protest of the 18th January, 1822, addressed to Count Lieven, of Russia, he alluded to the matters in dispute as "*especially connected with the territorial rights of the Russian Crown on the north-west coast of America bordering on the Pacific Ocean, and the commerce and navigation of His Imperial Majesty's subjects in the seas adjacent thereto.*" From those and other pertinent facts it is evident that the protests of Lord Londonderry and the Duke of Wellington had nothing whatever to do with the points now in issue between the American and British Governments concerning the waters of the Behring's Sea. They both referred in different, but substantially identical phrases, to the territory south of the Alaskan Peninsula bordering on the Pacific, and geographically shut out from the Behring's Sea. I regret that my arguments on a point which Lord Salisbury considers of great importance should have escaped his Lordship's notice. In Lord Salisbury's judgment the contention of the United States now rests wholly upon the Ukase of 1821 by the Emperor Alexander I. of Russia. The United States has at no time rested its arguments solely on the ground mentioned, and this Government regrets that Lord Salisbury should have so misapprehended the American position as to limit its basis of right in the Behring's Sea to the Ukase of 1821. The United States has, among other grounds, insisted, without recurring to any of its inherited and superior rights in Alaska, that this Government has as full authority for going beyond the 3-mile line in case of proved necessity as Great Britain possesses.

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Two or three instances of the power which Great Britain exercises beyond the 3-mile line have already been quoted, but have failed thus far to secure comment or explanation from Lord Salisbury.

Another case can be added which, perhaps, is still more to the point. In 1889, only two years ago, the British Parliament enacted a Law the effect of which is fully shown by a Map inclosed herewith.

Far outside the 3-mile line the Parliament of Great Britain has attempted to control a body of water situated beyond the north-eastern section of Scotland, 2,700 square miles in extent, and to direct that certain methods of fishing shall not be used within that great body of water under a prescribed penalty. It will be observed that the inhibition is not alone against British subjects, but against "any person." I here quote the pertinent section of the Parliamentary Act in question:—

"7.—(1.) The Fishing Board may, by Bye-law or Bye-laws, direct that the methods of fishing known as beam trawling and otter trawling shall not be used within a line drawn from Duncansby Head, Cuthness, to Rattray Point, Aberdeenshire, in any area or areas to be defined in such Bye-law, and may from time to time make, alter, and revoke Bye-laws for the purposes of this section, but no such Bye-law shall be of any validity until it has been confirmed by the Secretary for Scotland.

"(2.) Any person who uses any such method of fishing in contravention of any such Bye-law shall be liable, on conviction under the Summary Jurisdiction (Scotland) Acts, to a fine not exceeding 5*l.* for the first offence, and not exceeding 20*l.* for the second or any subsequent offence, and every net set, or attempted to be set, in contravention of any such Bye-law may be seized and destroyed or otherwise disposed of as in the 6th section of this Act mentioned."

If Great Britain may thus control an area of 2,700 square miles of ocean on the coast of Scotland, why may not the United States prescribe a space around the Pribyloff Islands in which similar prohibitions may be in force? The following would be the needed legislation for such a purpose by Congress, and it is but a paraphrase of the Act of Parliament:—

"The Fur Seal Board may, by Bye-law or Bye-laws, direct that the methods of sealing known as spearing or harpooning, or with fire-arms, shall not be used within a line drawn from the shores of the Pribyloff Islands 60 miles in the Behring's Sea; and said Board may from time to time make, alter, and revoke Bye-laws for the purpose of this section; but no such Bye-law shall be of any validity until it has been confirmed by the Secretary of the Treasury. Second. Any person who uses any such method of sealing in contravention of such Bye-laws shall be liable, on conviction, to a fine not exceeding 100 dollars for the first offence, and not exceeding 500 dollars for the second or any subsequent offence; and every spear, harpoon, or fire-arm attempted to be used in contravention of any such Bye-law may be seized and destroyed, or otherwise disposed of, as said Fur Seal Board may direct."

It must not escape observation that the area of water outside the 3-mile line on the coast of Scotland, whose control is assumed by Great Britain, is as large as would be found inside a line drawn from Cape Cod to Portland Harbour, on the New England coast.

Lord Salisbury reasserts his contention that the words "Pacific Ocean" at the time of the Treaty between Russia and Great Britain did include Behring's Sea. Undoubtedly the Pacific Ocean includes Behring's Sea in the same sense that the Atlantic Ocean includes the Gulf of Mexico, and yet it would be regarded as a very inaccurate statement to say that the Mississippi River flows into the Atlantic Ocean. I think Lord Salisbury fails to recognize the common distinction between the "Atlantic Ocean" and "the waters of the Atlantic." While the Mexican Gulf is not a part of the Atlantic Ocean, it would, I am sure, comport with general usage to say that it belonged to the waters of the Atlantic, and, while Behring's Sea is not technically a part of the Pacific Ocean, it undoubtedly belongs to the waters of the Pacific. The English Channel would not ordinarily be understood as included in the term "Atlantic Ocean." One would not say that Dover or Calais is on the coast of the Atlantic Ocean, and yet clearly the English Channel belongs to the waters of the Atlantic. In point of fact, therefore, according to the usage of the world, there is no dispute of any consequence between the two Governments on the geographical point under consideration. The historical point is the one at issue. The explanatory note from Russia filed in the State Department of this country, specially referred to in Mr. John Quincy Adams' diary and quoted in my note of the 17th December, 1890, plainly draws a distinction between the Pacific Ocean on the one hand, and the "Sea of Okhotsk, the Sea of Kamschatka, and the Icy Sea" on the other; and so long as Russia drew that

distinction it must apply to and must absolutely decide all the contentions between the two countries as far as the waters of the Behring's Sea are concerned. To discuss this point further would, in the opinion of the President, contribute nothing of value to the general contention.

In the opinion of the President Lord Salisbury is wholly and strangely in error in making the following statement: "Nor do they [the advisers of the President] rely as a justification for the seizure of British ships in the open sea upon the contention that the interests of the seal fisheries give to the United States' Government any right for that purpose which, according to international law, it would not otherwise possess." The Government of the United States has steadily held just the reverse of the position Lord Salisbury has imputed to it. It holds that the ownership of the islands upon which the seals breed, that the habit of the seals in regularly resorting thither and rearing there young thereon, that their going out from the islands in search of food and regularly returning thereto, and all the facts and incidents of their relation to the islands, give to the United States a property interest therein; that this property interest was claimed and exercised by Russia during the whole period of its sovereignty over the land and waters of Alaska; that England recognized this property interest so far as recognition is implied by abstaining from all interference with it during the whole period of Russia's ownership of Alaska, and during the first nineteen years of the sovereignty of the United States.

It is yet to be determined whether the lawless intrusion of Canadian vessels in 1886 and subsequent years has changed the law and equity of the case theretofore prevailing.

I have, &c.
(Signed) J. G. BLAINE.

Inclosure 2 in No. 1.

Sketch of North-Eastern Section of Scotland.

Inclosure 3 in No. 1.

Original Six Questions suggested by Mr. Blaine in his Note of December 17, 1890. *Questions as altered and now proposed by Mr. Blaine.*

1. What exclusive jurisdiction in the sea now known as the Behring's Sea, and what exclusive rights in the seal fisheries therein, did Russia assert and exercise prior and up to the time of the cession of Alaska to the United States?

2. How far were these claims of jurisdiction as to the seal fisheries recognized and conceded by Great Britain?

3. Was the body of water now known as the Behring's Sea included in the phrase "Pacific Ocean," as used in the Treaty of 1825 between Great Britain and Russia; and what rights (if any) in the Behring's Sea were given or conceded to Great Britain by the said Treaty?

4. Did not all the rights of Russia as to jurisdiction, and as to the seal fisheries in Behring's Sea east of the water boundary, in the Treaty between the United States and Russia of the 30th March, 1867, pass unimpaired to the United States under that Treaty?

5. What are now the rights of the United States as to the fur-seal fisheries

1. The same.

2. The same.

3. Was the body of water now known as the Behring's Sea included in the phrase "Pacific Ocean," as used in the Treaty of 1825 between Great Britain and Russia; and what rights (if any) in the Behring's Sea were held and exclusively exercised by Russia after said Treaty?

4. The same.

5. Has the United States any right, and if so, what right, of protection or property in

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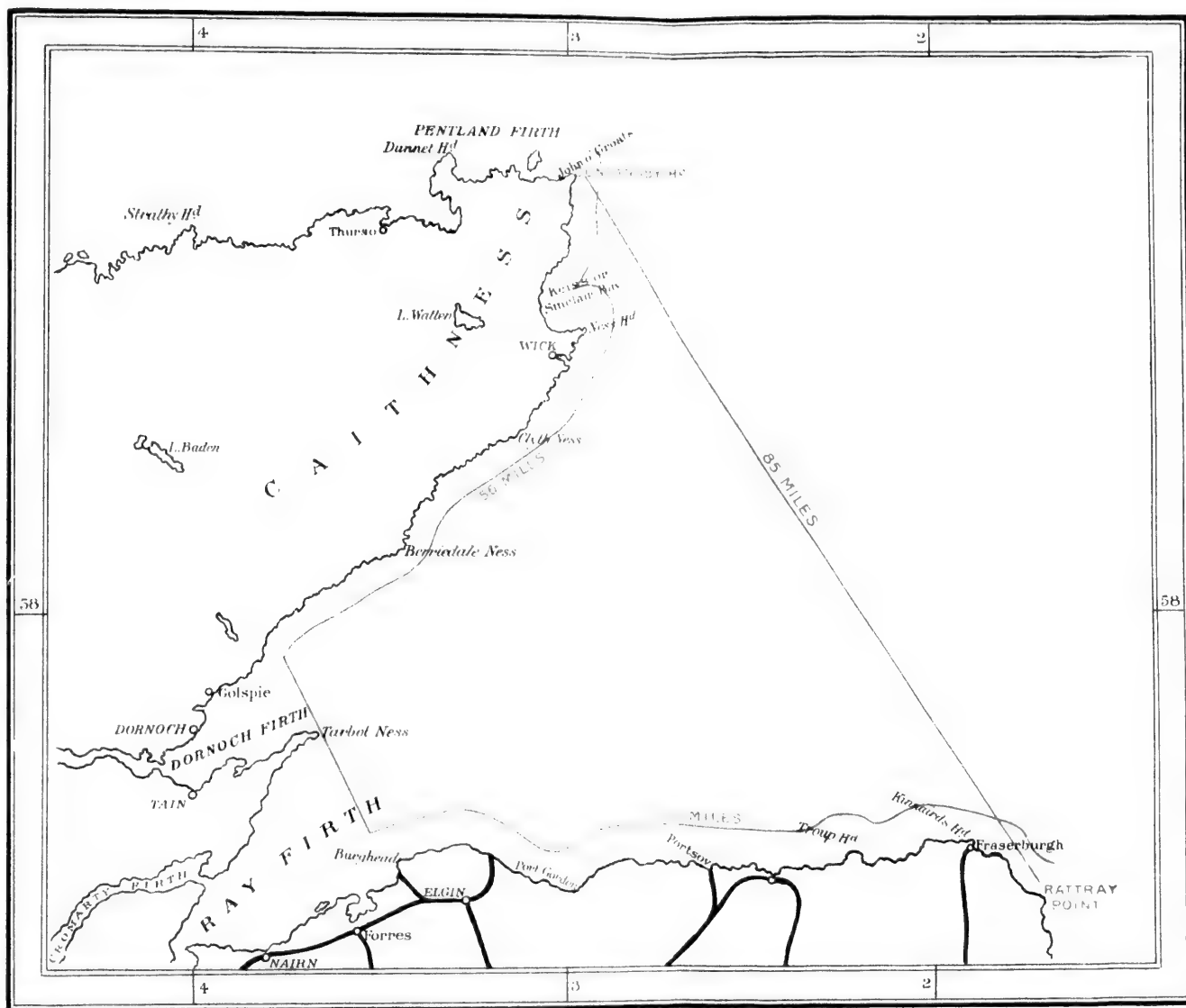
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NORTH EASTERN SECTION OF SCOTLAND.

TO FACE P 4.



Extract from CHAPTER 23.

An Act to amend the Herring Fishery (Scotland)
Acts; and for other purposes relating thereto.

[26th July, 1889.]

7.—(1.) The Fishery Board may, by byelaw or byelaws direct that the methods of fishing known as beam trawling and otter trawling shall not be used within a line drawn from Duncansby Head, in Caithness, to Rattray Point, in Aberdeenshire, in any area or areas to be defined in such byelaw, and may from time to time make, alter, and revoke byelaws for the purposes of this section, but no such byelaw shall be of any validity until it has been confirmed by the Secretary for Scotland.

(2.) Any person who uses any such method of fishing in contravention of any such byelaw shall be liable, on conviction under the Summary Jurisdiction (Scotland) Acts, to a fine not exceeding five pounds for the first offence, and not exceeding twenty pounds for the second or any subsequent offence; and every net set, or attempted to be set, in contravention of any such byelaw may be seized and destroyed or otherwise disposed of as in the sixth section of this Act mentioned.

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Original Six Questions, &c.

in the waters of the Behring's Sea outside of the ordinary territorial limits, whether such rights grow out of the cession by Russia of any special rights or jurisdiction held by her in such fisheries or in the waters of Behring's Sea, or out of the ownership of the breeding islands and the habits of the seals in resorting thither and rearing their young thereon and going out from the islands for food, or out of any other fact or incident connected with the relation of those seal fisheries to the territorial possessions of the United States?

6. If the determination of the foregoing questions shall leave the subject in such a position that the concurrence of Great Britain is necessary in prescribing Regulations for the killing of the fur-seal in any part of the waters of Behring's Sea, then it shall be further determined: (1) How far, if at all, outside the ordinary territorial limits, it is necessary that the United States should exercise an exclusive jurisdiction in order to protect the seal for the time living upon the islands of the United States and feeding therefrom? (2) Whether a closed season (during which the killing of seals in the waters of Behring's Sea outside the ordinary territorial limits shall be prohibited) is necessary to save the seal-fishing industry, so valuable and important to mankind, from deterioration or destruction? And, if so, (3) What months or parts of months should be included in such season, and over what waters it should extend?

Questions as altered, &c.

the fur-seals frequenting the islands of the United States in Behring's Sea when such seals are found outside the ordinary 3-mile limit?

6. The same.

(For Additional Article as to damages, see Mr. Blaine's note.)

No. 2.

Mr. C. Hawkins to the Marquis of Salisbury.—(Received May 1.)

My Lord,

The Glen, Avenue Road, Anerley, April 29, 1891.

IN consequence of the negotiations being carried on between the United States' Government and our own to bring about a satisfactory settlement of the Behring's Sea Seal Fishery question, I beg to offer you the following facts, trusting they may be useful to you as emanating from one with a practical knowledge extending over a period of eighteen years.

I also inclose herewith a cutting from the "Daily Chronicle" of the above date, which induces me to take this liberty, supposing the statement therein detailed to be correct.

Since about the year 1885 we have received in this country large numbers of seal-skins known in the trade as north-west coast skins, the same having been taken in the open sea, and, from appearances that are unmistakable to the initiated, are exclusively the skins of female seals pregnant; these are all shot, and I have been informed that for every skin recovered five or six are lost through sinking when struck by the shot; this wholesale slaughter of the females will, in a short time, bring about the extermination of the seal in that district if not arrested.

We, on the other hand, during my experience, have had annually large numbers of seal-skins from Alaska, and also from the Copper Island, which are killed by being clubbed on land, and are selected with judgment, being the skins of young male seals; the older fighting and breeding males are spared.

I feel sure that this which I have written would be corroborated by the principals of the following firms, if applied to, or any others, with sufficient intelligence, who have to deal with the skins in the salted state:—Messrs. C. M. Lampson and Co., Queen Street, City; Messrs. C. W. Martin and Sons, 4, Lambeth Hill, City; Mr. G. Rice, Great Prescott Street, Whitechapel.

I beg, &c.
(Signed) C. HAWKINS.

Inclosure in No. 2.

Extract from the "Daily Chronicle" of April 29, 1891.

THE BEHRING'S SEA FISHERIES.

(From our Correspondent.)

New York, Tuesday.

NOW that the "Sayward" case is postponed till October, much interest attaches to the question as to the steps that will be taken with regard to the coming sealing season. The "Herald" says that from present indications, the sealing industry will be free to all. In the summer the revenue steamers will proceed to the Behring's Sea, but with private orders to molest no vessel sealing beyond 3 miles from the shore. Mr. Blaine and Sir Julian Pauncefote have for a week past been in negotiation in respect of a *modus vivendi* for the season, but they have not yet arrived at any conclusion. Professor Elliott, the Government expert, wishes for a suspension of marine sealing for one or two years, as suggested by Lord Salisbury, but the Treasury has not given its assent to this proposal.

The Treasury officials state that the Government lost 385,000 dollars in the revenue from the islands last year, by reducing the catch from 100,000 to 60,000 seals by way of precaution. There was, in addition, a loss of 375,000 dollars through the timidity of the Treasury Agent at the islands in stopping the killing of seals when only 21,000 skins had been taken. The lessees of the islands had expected to recoup themselves this year for last year's losses, and they are alarmed at the prospect of suspension this year. According to the present outlook, the total catch for the year will be little short of 300,000 seals.

The "Boston Herald" says that the Honourable S. B. Elkins, who was Mr. Blaine's Manager in the Convention of 1888, and the nominator of President Harrison, has, through his influence, stopped the Behring's Sea negotiations, which were about to terminate successfully. Mr. Elkins is largely interested in the Sealing Company, and when he heard that Great Britain had verbally promised to join the United States to put a stop to the killing of seals for one year, he proceeded to Washington and induced Mr. Blaine to postpone the Agreement to the autumn, so that his Company could secure the 60,000 seals allowed by the Contract. Sir Julian Pauncefote has discovered the underhand move, and, while addressing a remonstrance to Mr. Blaine, he has also hastened to put a proposal to him in writing, so that it cannot be ignored.

No. 3.

Colonial Office to Foreign Office.—(Received May 27.)

Sir,

Downing Street, May 27, 1891.

I AM directed by Lord Knutsford to acknowledge the receipt of your letter of the 22nd instant,* forwarding copy of a despatch from Her Majesty's Minister at Washington inclosing copy of a letter addressed by Professor Elliot to the United States' Secretary to the Treasury, on the condition of seal life on the Pribyloff Islands during the summer of 1890.

I am to observe, in reply, that this letter of Mr. Elliot's bears out in a remarkable manner the contention of the Dominion Government that the principal danger to the seal species arises not from pelagic sealing, which would appear to be comparatively harmless, but from ill-regulated killing on land.

* "United States No. 2 (1891)," Appendix, p. 52.

In these circumstances, it is for consideration whether Her Majesty's Government should not insist that the question of the future regulation of sealing on land, as well as at sea should be submitted to the proposed Arbitration Tribunal.

In any case, Lord Knutsford is of opinion that an exhaustive joint inquiry should be made into the whole question, the results of which should be laid before the Arbitrators to enable them to arrive at a sound decision.

I am, &c.

(Signed) JOHN BRAMSTON.

No. 4.

Colonial Office to Foreign Office.—(Received May 29.)

Sir.

Downing Street, May 29, 1891.

WITH reference to previous correspondence, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, paraphrase of a telegram from the Governor-General of Canada, stating that the Canadian Government acquiesces in the proposed *modus vivendi* in Behring's Sea subject to certain conditions.

I am, &c.

(Signed) EDWARD WINGFIELD.

Inclosure in No. 4.

Lord Stanley of Preston to Lord Knutsford.

(Telegraphic.)

Ottawa, May 27, 1891.

WITH reference to my telegram of the 18th May, I forward the Minute of the Privy Council:—

With reference to your telegrams of the 17th and 23rd instant, the Government of the Dominion accede to the proposition of Her Majesty's Government, provided that compensation be given to the sealers who may be prevented from prosecuting their avocation, and that the authorities of the United States accept at once the terms suggested by Her Majesty's Government, and concurred in by the Dominion Government in August last, as an essential part of the same Agreement.

As, however, the Canadian Government does not possess the means of giving the proposed warning, and as the time for doing so appears inadequate, the Dominion Ministers cannot undertake to be answerable in the event of such warning proving ineffective.

There would be ample time to give due notice to all concerned if an alternative suggestion to the proposals referred to were made for a close season next year.

No. 5.

The Marquis of Salisbury to Sir R. Morier.

(Telegraphic.)

Foreign Office, June 2, 1891.

ASK the Russian Government whether they would be disposed to join in an Agreement which has been proposed by the United States' Government and accepted by Her Majesty's Government for a suspension until May 1892 of seal hunting in the islands and waters of Behring's Sea.

It is believed that an engagement will be entered into by both Powers to do their best to prevent their respective subjects and citizens from taking part in seal hunting, with the exception of a catch of 7,500 seals destined for the support of the Aleuts in the service of the North American Commercial Company. The Agreement cannot, of course, be signed unless Russia is prepared to adhere to it.

No. 6.

The Marquis of Salisbury to Sir J. Pouncefote.

(Telegraphic.)

Foreign Office, June 2, 1891.

I HAVE to instruct you to make the following proposals to the United States' Government with regard to a *modus vivendi* in Behring's Sea:—

1. The two Governments to prohibit, up to May 1892, the killing of seals in Behring's Sea or any of the islands thereof, and to insure, to the best of their ability, that this prohibition shall not be infringed by their subjects, or by vessels flying their respective flags.

2. During the time named the United States shall have the right to kill 7,500 seals.

3. An exequatur will be granted by the United States' Government to any Consul who may at any time be appointed by Her Majesty's Government to the islands in Behring's Sea.

4. The above Convention shall not come into operation unless the assent of Russia is given to it.

No. 7.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received June 2.)

(Telegraphic.)

Washington, June 2, 1891.

I HAVE received your telegram of to-day. I will lose no time in acting on your Lordship's instructions. With reference to clause 1, I beg to observe that the prohibition extends to the whole of Behring's Sea, and I apprehend objection on the ground that the United States' Government is not empowered by Act of Congress to prohibit sealing beyond that part of it which, they contend, is, by virtue of their Treaty with Russia, "within the dominion of the United States."

No. 8.

The Marquis of Salisbury to Sir J. Pouncefote.

(Telegraphic.)

Foreign Office, June 2, 1891.

WITH reference to your despatch of the 15th April last, I have to request you to inform the Government of the United States that Her Majesty's Government are prepared to assent to the first five points which Mr. Blaine proposes should be submitted to arbitration in his note of the 14th April.

Her Majesty's Government are unable to assent to the sixth point.

They propose as an alternative the appointment of a Commission consisting of four experts, of which two should be nominated by Great Britain, and two by the United States, and of a Chairman nominated by the Arbiters.

This Commission to examine and report on the following question:—

What international arrangements, if any, between Great Britain, the United States, and Russia, or any other Power, are necessary for the purpose of preserving the fur-seal race in Behring's Sea from extermination?

With regard to the question of compensation, Her Majesty's Government propose the following Article:—

"If it shall be shown to the Arbitrators that seal-hunters, subjects of either Power, have been damaged in the pursuit of that industry by the action of the other Power, it shall be competent for the Arbitrators to award such compensation to the said subjects as in their judgment shall seem equitable."

No. 9.

The Marquis of Salisbury to M. de Staal.

M. l'Ambassadeur,

Foreign Office, June 2, 1891.

I HAVE the honour to inform your Excellency that Her Majesty's Government have agreed to a proposal made to them by the Government of the United States that

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seal hunting should be suspended in the islands and waters of Behring's Sea until May 1892. We believe that an engagement will be entered into by both Powers to do their best to prevent their subjects and citizens from taking part in the seal hunting, exception only being made for a catch of 7,500 destined for the subsistence of the natives in the service of the Alaska Company. A proposal has been made to the United States' Government to that effect.

This Arrangement cannot be put in force without the adherence of the Russian Government, and the Agreement will not be signed until this has been obtained. Her Majesty's Ambassador at St. Petersburg has been instructed by telegraph to make a communication in the above sense to M. de Giers, and to express our earnest hope that the Russian Government will consent to a measure which appears to be necessary in order to prevent the early extermination of the fur-seal.

I have, &c.
(Signed) SALISBURY.

No. 10.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 3.)

(Telegraphic.)

Washington, June 3, 1891.

I HAVE to-day communicated to the Acting Secretary of State, in the form of Memoranda, the substance of your Lordship's telegrams of yesterday's date, relative to Behring's Sea, which I received last night.

No. 11.

The Marquis of Salisbury to Sir E. Malet.

Sir,

Foreign Office, June 3, 1891.

HER Majesty's Government have agreed to a proposal made by the United States' Government for the suspension for one year of seal hunting in the islands and waters of Behring's Sea; and have expressed their readiness to enter into an Agreement whereby the two Governments shall prohibit the killing of seals up to May 1892, and shall undertake to use their best endeavours to prevent the infringement of the prohibition by their respective subjects and citizens or by vessels flying their respective flags, with the exception of a catch of 7,500 seals destined for the support of the Aleutian islanders in the service of the North American Commercial Company.

The Russian Government have been invited to join in the Arrangement.

It has been suggested that it would be desirable to obtain the concurrence of the German Government in the suspension of seal-taking on the ground that the German flag has appeared on fishing-vessels in the Behring's Sea. According to the Report of the Canadian Minister of Marine for 1889, it appears that one such vessel was engaged in fishing during that year.

I should wish you to ascertain whether the interest taken by the German Government in the seal fishery is such as to make it advisable to invite their concurrence in the suspension.

I am, &c.
(Signed) SALISBURY.

No. 12.

Sir R. Morier to the Marquis of Salisbury.—(Received June 4.)

(Telegraphic.)

St. Petersburg, June 4, 1891.

I HAVE this day communicated to M. de Giers a note in the sense of your Lordship's telegram of the 2nd instant. I am informed that his Excellency has not yet heard from the United States' Government on the subject.

No. 13.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 4.)

(Telegraphic.)

Washington, June 4, 1891.

WITH reference to your Lordship's telegram of the 2nd instant, containing the draft of a *modus vivendi* in Behring's Sea, I have the honour to inform you that I have to-day received a reply to your Lordship's proposal from the Acting Secretary of State, which is to the following effect:—

[See text of Mr. Wharton's note of the 4th June in Sir Julian Pauncefote's despatch of the 5th June, 1891: Inclosure in No. 40, *infra*.]

No. 14.

The Marquis of Salisbury to Sir R. Morier.

(Telegraphic.)

Foreign Office, June 5, 1891.

I HAVE received your telegram of yesterday.

We should be glad if M. de Giers would inform us of his views with regard to the proposed Agreement for the preservation of the seals in Behring's Sea without waiting to receive a communication from the Government of the United States on the subject.

No. 15.

The Marquis of Salisbury to Sir J. Pauncefote.

(Telegraphic.)

Foreign Office, June 5, 1891.

HER Majesty's Government have had under their consideration the counter-proposals of the President of the United States for a *modus vivendi* in Behring's Sea as reported in your telegram of the 4th instant.

They agree to accept the proposal, that officers of either Government may seize and hand over to their national jurisdiction offending vessels under either flag.

We thus give power to cruisers belonging to the United States to supervise the conduct of Englishmen in keeping the *modus vivendi* at sea. On the other hand, we ought to receive corresponding power from the United States of supervising the proceedings of Americans on the islands resorted to by the seals. The equality of the proposed Agreement is dependent on the fidelity with which the Americans observe the condition, that not more than 7,500 seals shall be killed. In the opinion of Her Majesty's Government, it is indispensable that the right should be reserved to them of satisfying themselves that this condition is fully observed.

If the United States' Government object to the appointment of a permanent British Consul on the islands, they can, under their Statute, specially authorize the presence there during the present fishing season of a British agent.

Her Majesty's Government will not insist that Russia shall be a party to the proposed *modus vivendi*. But I earnestly press upon the United States' Government the extension of the prohibition to American ships over the whole of Behring's Sea: in that case, Her Majesty's Government will similarly extend the prohibition to British ships.

If it is lawful that seals may be hunted on one side of an imaginary line in the open ocean while it is unlawful on the other side, it will, in many cases, be impossible to prove the fact of unlawful sealing, or to infer from the possession of skins or tacks, that it has taken place.

It is, in the opinion of Her Majesty's Government, of great importance that an Agreement should be arrived at as to the terms of the arbitration at the same time that the *modus vivendi* is arranged. We should be unable to repeat the suspension of seal-fishing operations for another year.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received June 6.)

(Telegraphic.)

Washington, June 6, 1891.

THIS morning I delivered to the Acting Secretary of State a Memorandum communicating the contents of your Lordship's telegram of yesterday, and I have just received a reply to the following effect:—

See text of Mr. Wharton's note of the 6th June in Sir Julian Pouncefote's despatch of the 9th June, 1891: Inclosure in No. 47, *infra*.]

Sir J. Pouncefote to the Marquis of Salisbury.—(Received June 8.)

My Lord,

Washington, May 28, 1891.

I HAVE the honour to inclose copy of a note which I have received from Mr. Adee, Acting Secretary of State, expressing the earnest desire of the President for an early response to the proposal contained in Mr. Blaine's note of the 4th instant for a *modus vivendi* during the coming sealing season in Behring's Sea.

Mr. Adee, as your Lordship will perceive, informs me of the departure of the United States revenue-steamer "Rush" for the sealing islands and of the approaching sailing of the "Corwin" for the same destination.

I have also the honour to inclose copy of the reply which I have returned to Mr. Adee's communication.

I have, &c.

(Signed) JULIAN POUNCEFOTE.

Inclosure 1 in No. 17.

Mr. Adee to Sir J. Pouncefote.

Sir,

Department of State, Washington, May 26, 1891.

IN my personal note of the 20th instant, and on several other occasions in oral communication, I have had the honour to express the desire of the President to be informed, at the earliest possible moment, of the response of Her Majesty's Government to the proposal, which formed the subject of Mr. Blaine's note to you of the 4th instant, that seal-taking on the islands and in the waters of Behring's Sea be limited, as in said note expressed, as to citizens of the United States and subjects of Great Britain, pending the arbitration of certain questions in controversy between the two Governments.

In several interviews with you since the 20th instant, the desire of the President for an early response to the note of the 4th May has been reaffirmed.

The situation evidently calls for prompt action. Each day's delay increases the existing difference in the ability of the respective Governments to make the proposed limitation of seal-taking effective. It is reported that a large fleet of Canadian sealers has been for some weeks or months on the seas. They are daily going further out of reach. The revenue-cruisers have awaited definite orders. Their presence is urgently needed in the Behring's Sea. Any further delay tends to defeat the very purpose for which the Agreement is sought. It is quite incompatible with fairness and justice to our citizens that this should be permitted to continue.

Ample opportunity has been afforded to Her Majesty's Government to bring this condition to a close by an effective Agreement; but the result is still uncertain, and to all appearances remote. The President would be glad to know that it is near at hand and certain; but he can no longer hold back, in furtherance of a vague hope, to the detriment of the legitimate interests of the Government and citizens of the United States.

I am, therefore, directed by the President to inform you that orders have been given to the revenue-steamer "Rush" to proceed to the sealing islands.

Another revenue-steamer, the "Corwin," is at San Francisco, nearly ready to sail, and will very shortly put to sea. Should an Agreement be reached before her departure, appropriate orders may still be sent by her to the islands. I mention this, in order that

you may comprehend how fully this Government desires to effect an arrangement for this season, and that you may realize how each day's delay lessens the ability of Her Majesty's Government to effectively co-operate with regard to British subjects, and tends to destroy the practical utility of an Agreement to limit the seal catch.

I have, &c.
(Signed) ALVEY A. ADEE,
Acting Secretary.

Inclosure 2 in No. 17.

Sir J. Pauncefote to Mr. Adee.

Sir,

Washington, May 27, 1891.

I HAVE the honour to acknowledge the receipt of your note of yesterday's date, and to inform you that I have communicated the substance of its contents to the Marquis of Salisbury by telegram. I feel assured that his Lordship will greatly regret any inconvenience which may be caused to your Government by the impracticability of returning an immediate reply to the proposal contained in Mr. Blaine's note to me of the 4th instant.

Lord Salisbury, as I had the honour to state to you verbally, is using the utmost expedition, but the lateness of the proposal and the conditions attached to it have given rise to grave difficulties, as to which his Lordship has necessarily been in communication with the Canadian Government. His reply, however, may now arrive at any moment.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

No. 18.

Colonial Office to Foreign Office.—(Received June 8.)

Sir,

Downing Street, June 8, 1891.

I AM directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a letter from the Acting High Commissioner for Canada, forwarding copy of a telegram from the British Columbian Board of Trade, protesting against the proposed prohibition of sealing in Behring's Sea this season.

Lord Knutsford proposes, with Lord Salisbury's concurrence, to inform the Acting High Commissioner, in reply, that, as the total cessation of sealing in Behring's Sea will greatly enhance the price of the produce of the coast fishery, Her Majesty's Government do not anticipate that British sealers will suffer to any great extent by exclusion from Behring's Sea; but that they will be prepared to consider any case in which it is clearly established that loss has been suffered by a British subject through the enforcement of the prohibition.

I am, &c.
(Signed) R. H. MEADE.

Inclosure in No. 18.

Mr. Colmer to Colonial Office.

*Victoria Chambers, 17, Victoria Street, London.
June 3, 1891.*

Sir,

I AM directed by the High Commissioner to quote, for the information of Her Majesty's Government, the following telegram which has been received from Mr. Robert Ward, the President of the British Columbia Board of Trade:—

"British Columbia Board of Trade respectfully asks you protest strongest possible manner against proposed legislation prohibiting British sealers Behring's Sea this season. Sealing fleet equipped and cleared months since at heavy outlay. Result peremptory prohibition serious injustice and ruin to many engaged in industry here."

I am, &c.
(Signed) J. G. COLMER

Sir R. Morier to the Marquis of Salisbury.—(Received June 8.)

(Telegraphic.)

St. Petersburg, June 8, 1891.

I HAD a long conversation yesterday with M. de Giers at his country place in Finland, relative to the proposed Agreement between the Governments of Great Britain and the United States for the protection of seal-hunting in the islands and waters of the Behring's Sea. His Excellency's views with regard to the proposal are entirely in accord with those of Her Majesty's Government, but it appears that the question is not treated of by him, but by the Minister of Domains, who has just terminated negotiations for a contract with an influential Russo-American Seal Company.

His Excellency informed me that he would do his utmost to persuade his colleague to agree to the proposal, and he expressed the hope that he would be able to give me a final answer during the coming week.

The Marquis of Salisbury to Sir J. Pouncefote.

(Telegraphic.)

Foreign Office, June 8, 1891.

HER Majesty's Government have had under consideration the counter-proposals of the President of the United States for a *modus vivendi* during the present seal-fishing season in Behring's Sea, as reported in your telegram of the 6th instant.

I have to inform you that they are prepared to assent to a draft Agreement drawn up in the terms which you will receive in my further telegram of to-day.

The Marquis of Salisbury to Sir J. Pouncefote.

(Telegraphic.)

Foreign Office, June 8, 1891.

THE following Articles of Agreement contain the terms to which Her Majesty's Government are prepared to assent for the establishment of a *modus vivendi* in Behring's Sea.

You are authorized to submit them for the consideration of the Government of the United States:—

"For the purpose of avoiding irritating differences, and with a view to promote friendly settlement of the questions pending between the two Governments touching their respective rights in Behring's Sea, and for preservation of seal species, the following Agreement is made without prejudice to the rights or claims of either party:—

"1. Her Majesty's Government will prohibit until May next seal-killing in that part of Behring's Sea lying eastward of the line of demarcation described in Article I of the Treaty of 1867 between the United States and Russia, and will promptly use best efforts to insure observance of prohibition by British subjects and vessels.

"2. If the United States' Government will prohibit seal-killing for the same period in the same part of Behring's Sea, and on the shores and islands thereof the property of the United States (in excess of 7,500 to be taken on the islands as food skins, and not for tax and shipment), and will promptly use best efforts to insure observance of prohibition by United States' citizens and vessels.

"3. Every offending vessel or person may be seized and detained by the naval or other duly commissioned officers of either of the High Contracting Parties, but they shall be handed over as soon as practicable to the authorities of the nation to which they respectively belong, who shall alone have jurisdiction to try the offence and impose the penalties for the same. The witnesses and the proofs necessary to establish the offence shall also be sent with them.

"4. In order to facilitate such proper inquiries as Her Majesty's Government may desire to make, with the view to the presentation of the Case of that Government before Arbitrators, and in expectation that an agreement for arbitration may be arrived at, it is agreed that suitable persons, designated by Great Britain, will be permitted at any time, upon application, to visit, or to remain upon, the seal islands during the present sealing season for that purpose.

"5. A Commission of four experts, two nominated by each Government, and a Chairman nominated by the Arbitrators if appointed, and if not by the aforesaid Commissioners, shall examine and report on the following question :—

"What international arrangements, if any, between Great Britain, United States, and Russia, or any other Power, are necessary for the purpose of preserving the fur-seal race in the Northern Pacific from extermination ?

"6. The Government of the United States will join with that of Her Majesty in requesting Russia to forbid her subjects from sealing to the east of the line indicated in Article 1 of the present Agreement until the 1st May, 1892."

No. 22.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received June 8.)

(Telegraphic.)

Washington, June 8, 1891.

I HAVE to-day delivered a note to the Acting Secretary of State communicating to him, with the request that he will submit it to his Government for their consideration, the draft Agreement for a *modus vivendi* contained in your Lordship's telegram of to-day.

No. 23.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received June 9.)

(Telegraphic.)

Washington, June 9, 1891.

THE draft of a note in answer to the proposals for a *modus vivendi* contained in your Lordship's telegram of yesterday, which will be addressed to me to-morrow, has just been shown to me.

The words in Article 2 "as food skins, and not for tax and shipment," are objected to by the President on the grounds that such a provision would preclude the export and sale of the skins for the purpose described in Mr. Blaine's note of the 4th May, i.e., to cover the cost of clothing, food, and fuel for the native inhabitants of the islands.

The President insists on the limitation of the power of seizure provided for in Article 3 to the waters "outside the ordinary territorial limits." On this point I beg to refer your Lordship to my telegram of the 6th instant.

He objects to the provision in Article 5 for the appointment of a Joint Commission as having no proper place in the *modus vivendi*, but he will give the suggestion "a full consideration in connection with the negotiation for arbitration."

Article 6, as to a joint note to Russia, is objected to on the ground that, westward of the line of demarcation, the United States' Government has no power to agree to reciprocal action if Russia should make it a condition of adhesion.

The note concludes by stating that the President is prepared to sign at once the first four Articles proposed by your Lordship, with the omission in Article 2 and the additional clause in Article 3 specified above, if the Agreement can be immediately put into force.

I fear that lack of time will prevent us carrying the negotiation further, but I will use my best efforts to induce the United States' Government to agree positively, as one of the terms of arbitration, to a provision for a Joint Commission.

No. 24.

The Marquis of Salisbury to Sir R. Morier.

(Telegraphic.)

Foreign Office, June 9, 1891.

IN consequence of the existing statutory limitations to the powers of the United States' Executive, Her Majesty's Government propose that there shall be a close time in Behring's Sea for this season on land and sea only, to the east of the line of 1867.

They are only asking, therefore, that Russian subjects shall be forbidden during this year from sealing to the east of that line by sea, as Russia has no land to the east of it; and that we shall be allowed to stop vessels sailing under the Russian flag which are so employed. But as the United States' Government maintain that they have a right

to exclude all ships of whatever nation from that part of Behring's Sea, they can hardly join in this request without stultifying themselves.

A close time to the east of the line in the result will also recruit the seal fishery to the west of it, and Russia, therefore, will find her interest in acceding to our request.

No. 25.

The Marquis of Salisbury to Sir J. Pauncefote.

(Telegraphic.)

Foreign Office, June 10, 1891.

BEHRING'S SEA *modus vivendi*. I have received your telegram of yesterday.

We assent to the insertion in Article 3 of the words, "outside ordinary territorial limits," and also, though reluctantly, to the omission from Article 2 of the words, "as food skins, and not for tax and shipment."

We cannot, however, consent to leave the Joint Commission in doubt. It may be recorded in the form of a separate note; but if the United States will not agree in principle that inquiry shall be made by a Joint Commission as to what permanent measures, if any, are necessary for the preservation of the seal species, it is useless for us to involve our people in the inconvenience and cost which a close time for this year would entail.

The *modus vivendi* is rendered much less valuable by the reply of the President with regard to Russia.

No. 26.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 10.)

(Telegraphic.)

Washington, June 10, 1891.

WITH reference to my telegram of last night, relative to Behring's Sea, I have the honour to inform your Lordship that I called this morning on Mr. Wharton, the Acting Secretary of State. I explained that the words, "food skins, and not for tax and shipment," had been inserted in Article 2 for the purpose, not of preventing the sale of the 7,500 seal-skins, but of prohibiting the process which has been described by the United States' agents as the chief cause of the depletion of male seal life, namely, the driving and re-driving for selection. I was informed that the President still objects to the words, but that he would probably agree to the substitution of the phrase, "to cover the cost of food, fuel, clothing, and other necessities for the natives," which I suggested in order that the humanitarian object of the reservation might appear on the face of the document.

I presume that your Lordship will not object to the substitution of this phrase, or to the insertion in Article 3 of the words, "outside the ordinary territorial limits." Should your Lordship have no objection to these alterations, I venture to urge strongly that I may be at once authorized to sign the Agreement for a *modus vivendi*, to consist of the preamble and the first four Articles, as contained in your Lordship's telegram of the 8th instant, with the alterations given above, and the omission, which is agreed to by the State Department, of the last portion of Article 3, relating to the application of fines imposed by the Courts, this not being provided for in the Behring's Sea Act just passed.

Mr. Wharton assures me that the settlement of the terms of arbitration will be greatly expedited by the immediate signature of the Agreement, and he expresses the opinion that a Joint Commission may be rendered practicable this year by our signing at once.

No. 27.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 10.)

(Telegraphic.)

Washington, June 10, 1891.

WITH reference to my telegrams of yesterday and to-day respectively, I have the honour to inform your Lordship that I received the official note to-day the draft of which was shown me last night. It is identical with the draft, except that in Article 2 the

words, "for the subsistence and care of the natives," have been inserted after "in excess of 7,500 seals to be taken on the islands."

No. 28.

Sir R. Morier to the Marquis of Salisbury.—(Received June 10.)

(Telegraphic.)

St. Petersburg, June 10, 1891.

WITH reference to your Lordship's telegram of yesterday, I presume that, if we claim right to stop ships under Russian flag catching seals to the east of the 1867 line, we are prepared to allow Russia, under similar circumstances, to stop our own ships.

No. 29.

The Marquis of Salisbury to Sir R. Morier.

(Telegraphic.)

Foreign Office, June 10, 1891.

THE answer is "Yes" to the question asked in your telegram of to-day.

No. 30.

Foreign Office to Colonial Office.

Sir,

Foreign Office, June 10, 1891.

I HAVE laid before the Marquis of Salisbury your letter of the 8th instant, inclosing a protest from the Board of Trade of British Columbia against the proposed prohibition of sealing in Behring's Sea during the present season.

I am to state, in reply, that Lord Salisbury concurs in the answer which Lord Knutsford proposes to return to this communication.

I am, &c.
(Signed) P. CURRIE.

No. 31.

The Marquis of Salisbury to Sir J. Pauncefote.

(Telegraphic.)

Foreign Office, June 11, 1891.

BEHRING'S SEA *modus vivendi*.

Before you can be authorized to sign the Agreement, as suggested in your telegram of yesterday, you must obtain a written assurance in some form from the United States' Government that they will agree to the proposed reference to a Joint Commission of Experts.

No. 32.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 11.)

(Telegraphic.)

Washington, June 11, 1891.

I have no time in addressing a note to the Acting Secretary of State in the sense your Lordship's telegram of to-day relative to Behring's Sea.

This afternoon I received a reply in the following terms:—

"The United States' Government, recognizing the fact that full and adequate measures for the protection of seal life should embrace the whole Behring's Sea and portions of the North Pacific Ocean, will have no hesitancy in agreeing, in connection with Her Majesty's Government, to the appointment of a Joint Commission to ascertain what permanent measures are necessary for the preservation of the seal species in the waters referred to; such an Agreement to be signed simultaneously with the Convention for Arbitration, and to be without prejudice to the questions to be submitted to the Arbitrators.

"A full reply to your note of the 3rd June relating to the terms of arbitration will not be long delayed."

(The note of the 3rd June quoted above conveyed the sense of your Lordship's telegram of the 2nd June.)

On receipt of this reply, which was handed to me by Mr. Wharton, I expressed my regret and disappointment at the stipulation contained in it that the Agreement for a Joint Commission should be signed simultaneously with the Convention for Arbitration, as the Commission's appointment might be thereby indefinitely delayed, with the result that we should lose this year's season. He replied that the object of the stipulation was to make it clear to the public that the Joint Commission had not been accepted by the United States' Government until it had been definitely agreed that the settlement of the legal rights in dispute between the two nations should be referred to arbitration. He assured me that the President was most anxious that the appointment of the Commission should be early enough to permit it to commence its work during the season. In order to secure this result he would do everything in his power to expedite the signature of the Convention for Arbitration.

I await your Lordship's further instructions as to the steps I should now take.

No. 33.

The Marquis of Salisbury to Sir J. Pouncefote.

Sir,

Foreign Office, June 12, 1891.

I HAVE received your despatch of the 28th ultimo, inclosing copies of correspondence with the Acting Secretary of State respecting the proposed *modus vivendi* in Behring's Sea.

Your note to Mr. Adee of the 27th May is approved by Her Majesty's Government.

I am, &c.

(Signed) SALISBURY.

No. 34.

Colonial Office to Foreign Office.—(Received June 13.)

Sir,

Downing Street, June 13, 1891.

I AM directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, a copy of a telegram which has been sent to the Governor-General of Canada, respecting the selection of two British experts on the Joint Commission of inquiry into the seal fishery in Behring's Sea.

I am, &c.

(Signed) JOHN BRAMSTON.

Inclosure in No. 34.

Lord Knutsford to Lord Stanley of Preston.

Telegraphic.)

Downing Street, June 12, 1891.

SHALL be glad to know views of your Ministers as to selection of two British experts Behring's Sea Arbitration.

We think Baden-Powell, Member of Parliament, who has studied the question, would be valuable, and conclude he would be acceptable to Canada. The other should have special scientific or practical knowledge of seals and their habits. Can your Ministers propose well-qualified person?

No. 35.

The Marquis of Salisbury to Sir J. Pouncefote.

(Telegraphic.)

Foreign Office, June 13, 1891.

MODUS VIVENDI in Behring's Sea.

You are authorized to sign the Agreement, recording that you do so on the clear understanding that there will be no delay in the appointment of the Commission of Experts.

We will send instructions to our cruisers as soon as we hear that you have signed.

No. 36.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received June 13.)

(Telegraphic.)

Washington, June 13, 1891.

IMMEDIATELY on the receipt of your Lordship's telegram of the 13th instant on the subject of the *modus vivendi* in Behring's Sea, I addressed a note to the Acting Secretary of State, informing him that I had received your Lordship's authorization to sign the *modus vivendi*, on the clear understanding that there would be no delay in appointing the Joint Commission.

The following are the terms of the note which I have received, in reply, from Mr. Wharton:—

"The President directs me to say, in response to your note of this date, that his assent to the proposition for a Joint Commission, as expressed in my note of the 9th June, was given in the expectation that both Governments would use every proper effort to adjust the remaining points of difference in the general correspondence relating to arbitration, and to agree upon the definite terms of a submission, and of the appointment of a Joint Commission without unnecessary delay.

"He is glad that an agreement has finally been reached for the pending season."

The note proceeds with an invitation to call on Monday next, at 10 o'clock, at the State Department, in order to sign the Agreement. I have received a positive assurance at the State Department that the President will be prepared to proceed to discuss the terms of arbitration immediately after the signature of the Agreement.

As this reply appears to me to be satisfactory, I propose to sign on Monday; but before doing so, I should be glad if your Lordship would send me your final authority by telegraph.

No. 37.

The Marquis of Salisbury to Sir J. Pouncefote.

(Telegraphic.)

Foreign Office, June 14, 1891.

BEHRING'S SEA modus vivendi.

In reply to your telegram of to-day, I have to inform you that you are authorized to sign the Agreement.

No. 38.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received June 14.)

(Telegraphic.)

Washington, June 14, 1891.

THE Acting Secretary of State and I have just signed the Agreement for a *modus vivendi* in Behring's Sea.

I am now awaiting an appointment to continue the discussion of the terms of arbitration.

The above has been repeated to Lord Stanley.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received June 15.)

My Lord,

Washington, June 5, 1891.

WITH reference to my telegram of the 3rd instant, I have the honour to inclose copies of the Memoranda based on your Lordship's telegrams of the 2nd instant, on the subject of the *modus vivendi* in Behring's Sea, and of the terms of arbitration respectively, which I left yesterday morning with the Under-Secretary of State.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure 1 in No. 39.

Memorandum.

Proposal of Her Majesty's Government for a modus vivendi in the Behring's Sea during the present Fishery Season.

THE Governments of Great Britain and of the United States shall prohibit, until May 1892, the killing of seals in Behring's Sea or any islands thereof, and will, to the best of their power and ability, insure that the subjects and citizens of the two nations respectively, and the vessels flying their respective flags, shall observe that prohibition.

2. During the period above specified the United States' Government shall have the right to kill 7,500 seals.

3. Consuls may, at any time, be appointed to the islands in the Behring's Sea, and the United States' Government will grant an exequatur to any such Consul.

4. Unless the assent of Russia be obtained to this Convention it shall not come into operation.

(Signed) JULIAN PAUNCEFOTE.

Washington, June 3, 1891.

Inclosure 2 in No. 39.

Memorandum.

THE Undersigned has been instructed by the Marquis of Salisbury to inform the United States' Government that Her Majesty's Government are prepared to assent to the first five questions proposed to be submitted to arbitration in the note of the Honourable James G. Blaine to the Undersigned, dated the 14th April last.

Her Majesty's Government cannot give their assent to the sixth question formulated in that note. In lieu thereof they propose the appointment of a Commission to consist of four experts, of whom two shall be nominated by each Government, and a Chairman, who shall be nominated by the Arbitrators. The Commission shall examine and report on the question which follows:—

"For the purpose of preserving the fur-seal race in Behring's Sea from extermination, what international arrangements, if any, are necessary between Great Britain and the United States and Russia or any other Power?"

As regards the question of compensation Her Majesty's Government propose the following Article:—

"It shall be competent to the Arbitrators to award such compensation as in their judgment shall be equitable to the subjects and citizens of either Power who shall be shown to have been damaged in the pursuit of the industry of sealing by the action of the other Power."

(Signed) JULIAN PAUNCEFOTE.

Washington, June 3, 1891.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 15.)*

My Lord,

Washington, June 5, 1891.

WITH reference to my telegram of the 4th instant, I have the honour to inclose a copy of a note which I received yesterday from the Honourable William Wharton, the Acting Secretary of State, in reply to the counter-proposals of Her Majesty's Government for a *modus vivendi* in Behring's Sea, communicated by me to the United States' Government in accordance with the instructions contained in your Lordship's telegram of the 2nd instant.

I have, &c.

(Signed) JULIAN PAUNCEFOTE

Inclosure in No. 40.

Mr. Wharton to Sir J. Pauncefote.

Sir,

Department of State, Washington, June 4, 1891.

I AM directed by the President to say, in reply to your note of the 3rd instant, conveying to the Government of the United States the response of Her Majesty's Government to the proposal of Mr. Blaine for a *modus vivendi*, relating to the seal fisheries in Behring's Sea during the present season:—

First. In place of the first and second sub-divisions of the Agreement as submitted by you, the President suggests the following:—

1. The Government of Great Britain shall prohibit until May 1892 the killing of seals in all that part of Behring's Sea lying east, eastwardly or south-eastwardly of the line described in Article I of the Convention between the United States and Russia of date the 30th March, 1867, and will promptly take such steps as are best calculated effectively to insure the observance of this prohibition by the subjects and citizens of Great Britain and all vessels flying its flag.

2. The Government of the United States shall prohibit, until May 1892, the killing of seals in that part of Behring's Sea above described, and on the shores and islands thereof, the property of the United States (in excess of 7,500 to be taken on the islands); and the Government of the United States will promptly take such steps as are best calculated effectually to insure the observance of this prohibition by the citizens of the United States and the vessels flying its flag.

These changes are suggested in order that the *modus vivendi* may clearly have the same territorial extent with the pending proposals for arbitration; that the stipulation for a prohibition of seal-killing upon the islands of the United States may rest upon its own order, and that the obligation of the respective Governments to give prompt and vigorous effect to the Agreement may be more clearly apparent.

Secondly. The pertinency of the suggestion contained in the third sub-division of Lord Salisbury's proposal is not apparent to the President. The Statutes of the United States explicitly prohibit the landing of any vessels at the seal islands, and the residence thereon of any person, unless specifically authorized by the Secretary of the Treasury. It is, therefore, obvious that no Consular functions could be discharged upon the islands by any Representative of Her Majesty's Government. The President regards this Law, as declaring an exception as to the residence of Consuls, within the meaning of Article IV of the Convention of Commerce and Navigation of the 22nd December, 1815, between Her Majesty's Government and the United States. If the proposal is intended to relate to the Islands of St. Paul and St. George, and has for its object access for such Agents of the Government of Her Majesty as may be appointed to investigate facts that may be involved in the pending proposals for arbitration, or in the hearing before the Arbitrators, I am directed by the President to say that, in the event of an agreement for arbitration of the questions in dispute between Great Britain and the United States, he would be willing to extend reasonable facilities to Great Britain for the investigation at the islands of any facts involved in the controversy.

Thirdly. The fourth clause of the proposal of Her Majesty's Government, limiting the taking effect of the *modus vivendi* upon the assent of Russia, presents what seems to

* Substance telegraphed and received June 4.

the President an insuperable difficulty, as an adherence to that suggestion by Her Majesty's Government will, in his opinion, prevent the conclusion of any Agreement, and will inevitably cause such a delay as to thwart the purposes which he must suppose both Governments have had in view. He is surprised that this result did not suggest itself to Lord Salisbury, and does not doubt that it will be apparent to him on a re-examination. I am also directed to remind you that the contention between the United States and Great Britain has been limited to that part of Behring's Sea eastward of the line of demarkation described in our Convention with Russia, to which reference has already been made, and that Russia has never asserted any rights in these waters affecting the subject-matter of this contention, and cannot, therefore, be a necessary party to these negotiations, if they are not now improperly expanded. Under the Statutes of the United States, the President is authorized to prohibit sealing in the Behring's Sea within the limits described in our Convention with Russia, and to restrict the killing of seals on the islands of the United States; but no authority is conferred upon him to prohibit or make penal the taking of seals in the waters of Behring's Sea westward of the line referred to or upon any of the shores or islands thereof. It was never supposed by any one representing the Government of the United States in this correspondence or by the President, that an agreement for a *modus vivendi* could be broader than the subject of contention stated in the correspondence of the respective Governments.

Negotiations for an arbitration have been proceeding between the United States and Great Britain, and if these Powers are competent to settle by this friendly method their respective rights and relations in the disputed waters upon a permanent basis, it would seem to follow that no question could arise as to their competency to deal directly with the subject for a single season. If Great Britain now insists upon impossible conditions, viz., that the conclusion of the *modus vivendi* is to be delayed until, and made contingent upon the assent of Russia to stop the killing of seals on its own islands and in its own waters, and upon the exercise by the President of powers not conferred by law, this would be, in his opinion, a practical withdrawal by Great Britain from the negotiations for a *modus vivendi*. This he would very much regret, and he confidently hopes that a reconsideration will enable Lord Salisbury to waive the suggestion of Russia's participation in the Agreement, and the inclusion of other waters than those to which the contention between the United States and Great Britain relates.

In case the terms of the *modus vivendi* are agreed upon, the President suggests that a provision heretofore considered in another connection in the general correspondence, by which the naval or other duly commissioned officers of either party may arrest any offending vessel and turn it over at the nearest port of the nation whose flag it carries, for such judicial proceedings as the law provides, should be incorporated here, the more effectually to carry out the stipulations of the respective Governments to prohibit their citizens and vessels from taking seals in the specified waters of Behring's Sea.

Having, with a view to an exigency which he has several times caused to be explained to you, promptly responded to the suggestions of your note of yesterday, the President directs me to say that he will be pleased to have from Lord Salisbury a prompt response to these suggestions.

I am further directed by the President to say that your note of the same date referring to the conditions of the proposed arbitration, and stating the objection of Lord Salisbury to some points in the proposal of Mr. Blaine, will have the early attention of the President.

I have, &c.
(Signed) WILLIAM F. WHARTON,
Acting Secretary.

No. 41.

Sir R. Morier to the Marquis of Salisbury.—(Received June 15.)

My Lord,

St. Petersburg, June 10, 1891.

WHEN your Lordship's telegram of the 2nd instant, respecting the seal question in the Behring's Sea, reached St. Petersburg on Wednesday morning, I chanced to be in Finland, whither I had gone for an indispensable change of air. M. de Giers also intended to proceed thither at the end of the week. The places where we were respectively staying were a considerable distance apart, and as I was not sure which day M. de Giers was leaving St. Petersburg, I did not know whether to go to the capital or

to his country house. I accordingly telegraphed to Mr. Howard to at once address a note to the Foreign Office in the sense of your Lordship's telegram, and arranged to meet M. de Giers at his country house on Sunday. By this means no time was lost, for as early as Thursday night M. Shishkine, the Under-Secretary for Foreign Affairs, had telegraphed the contents of Mr. Howard's note to M. de Giers, who, when I reached him on Sunday, had had the papers connected with the subject sent up to him, and was in a position to give a provisional reply.

His Excellency's statement was to the following effect.

The question of seal-hunting in the Behring's Sea had formed the subject of continuous negotiation between the United States' Government and his own for a very considerable time, and many proposals had been submitted to him by the United States' Department, to none of which, however, had he been able to give his assent. So far as he could see, your Lordship's proposal was very reasonable, and its principle—namely, to give the seal fisheries a year's rest, in order to come to a definite arrangement as to the best means for preventing the destruction of these valuable animals—was one with which he had the fullest sympathy. It was impossible, however, to give me an answer off-hand, because the matter lay not with the Minister for Foreign Affairs, but with that of the Domains. Now it so happened that quite lately the former Contract of the Government with the Alaska Company had terminated, and a new Contract with a Russian Company had been substituted for it. Whether M. Ostrowski, the Minister of the Domains, would be in a position to put this Contract in abeyance for the next twelve-months, and whether, if he could, he would be able to do so without bringing the matter again before the Committee of Ministers, which would require some time, his Excellency could not tell me till he received a reply from his colleague. He had written to him to urge expedition in the matter, and hoped to be able to give me a definite answer by the middle of the week.

On my return to St. Petersburg I called upon M. Veshniakoff, the *alter ego* of the Minister of Domains, and urged on him the desirability of expedition. I found him well disposed towards the proposal, and I may therefore hope that a favourable answer will be given.

On the receipt of your Lordship's telegram of the 9th instant this morning, I addressed to M. de Giers a note embodying its contents, and called in the afternoon on M. Shishkine to urge that it should be immediately sent to the Ministry of Domains. He was not in a position to discuss the merits of this new departure.

I have the honour to transmit herewith copies of Mr. Howard's note of the 4th instant and of mine of to-day's date.

I have, &c.

(Signed) R. B. D. MORIER.

Inclosure 1 in No. 41.

Sir R. Morier to M. de Giers.

M. le Ministre,

St. Petersburg, May 23 (June 4), 1891.

I HAVE been instructed by Her Majesty's Principal Secretary of State for Foreign Affairs to inform your Excellency that Her Majesty's Government have agreed to a proposal of the United States' Government to suspend seal-hunting in the waters and islands of the Behring's Sea until the month of May next year. The two Powers engage to prevent, to the best of their ability, seal-hunting of every kind on the part of their subjects, with the exception, however, of allowing 7,500 seals to be taken for the support of the Aleuts employed by the Alaska Company. Lord Salisbury adds that, of course, there can be no question of this Agreement being signed unless Russia is willing to become a party to the same, and I am accordingly instructed to inquire of your Excellency whether the Imperial Government would be disposed to co-operate with the other two Powers concerned in effecting the proposed suspension.

I avail, &c.

(For Sir R. Morier),

(Signed) HENRY HOWARD.

Inclosure 2 in No. 41.

Sir R. Morier to M. de Gier.

M. le Ministre,

St. Petersburg, May 29 (1st June) 1891.

WITH reference to my note of the 23rd May (1st June), I have the honour to inform you that I have received instructions from the Marine Minister to your Excellency that, owing to the Constitutional limits placed upon the powers exercised by the Executive Government of the United States, the proposal of Her Majesty's Government is limited to the enforcement of a close season on land and sea, east of the line fixed by the Treaty of 1867. They are accordingly only anxious that Russia should prohibit her subjects from sealing this year to the east of that line in the open sea (seeing that there is no Russian land on the eastern side of this boundary), and should authorize us to stop vessels under her flag engaged in seal-hunting in those waters. The American Government would appear to be precluded from associating themselves in this request, as they contend that they have a right to exclude ships of every nationality from this portion of the Behring's Sea.

It will clearly be to Russia's interest to grant this request, as a close season to the east of the 1867 line will naturally benefit the fishing on its western side.

I am, &c.

(Signed) R. B. D. MORIER.

No. 42.

Sir E. Malet to the Marquis of Salisbury.—(Received June 15.)

My Lord,

Berlin, June 12, 1891.

WITH reference to your Lordship's despatch of the 3rd instant, instructing me to ascertain whether the interest taken by the German Government in the Behring's Sea seal fishery was such as to make it advisable to ask their concurrence in the suspension of the fishery, I have the honour to inform your Lordship that Baron von Marschall told me to-day that his Government did not take sufficient interest in the matter to make it worth their while to enter upon the lengthy but necessary process of submitting the matter to the Reichstag for its sanction to their participation in an Agreement for the suspension of the fishery.

I have, &c.

(Signed) EDWARD B. MALET.

No. 43.

Sir J. Panncofote to the Marquis of Salisbury.—(Received June 15.)

Telegraphic.)

Washington, June 15, 1891.

A PROCLAMATION has to-day been issued by the President, of which I shall send the text by mail to-morrow, embodying the terms of the Agreement for the *modus vivendi* in Behring's Sea.

No. 44.

Admiralty to Foreign Office.—(Received June 17.)

Sir,

Admiralty, June 16, 1891.

WITH reference to previous correspondence respecting the Behring's Sea seal fishery, I am commanded by my Lords Commissioners of the Admiralty to transmit herewith, for the information of the Secretary of State for Foreign Affairs, copies of telegrams which have this day been sent to the Commander-in-chief in China and the Senior Officer at Esquimalt, directing Her Majesty's ships "Porpoise," "Nymph," and "Pheasant" to proceed to Behring's Sea for fishery duty, and to carry out the provisions of "The Seal Fishery (Behring's Sea) Act, 1891."

I am, &c.

(Signed) EVAN MACGREGOR.

[Telegrams sent to Commander-in-chief in China and the Senior Officer at Esquimaux.]

To Senior Officer, Esquimaux.

THE following Act of Parliament has been passed:—

Article 1, clause 1. Her Majesty the Queen may, by Order in Council, prohibit the catching of seals by British ships in Behring's Sea, or such part thereof as is defined by the said Order during the period limited by the Order.

Clause 2. While an Order in Council under this Act is in force, a person belonging to a British ship shall not kill or take or hunt, or attempt to kill or take, any seal within Behring's Sea during the period limited by the Order, and a British ship shall not, nor shall any of the equipment or crew thereof, be used or employed in such killing, taking, hunting, or attempt.

Clause 3. If there is any contravention of this Act, any person committing, procuring, aiding, or abetting such contravention shall be guilty of a misdemeanour within meaning of "The Merchant Shipping Act, 1854," and the ship and her equipment, and everything on board thereof, shall be forfeited to Her Majesty as if an offence had been committed under section 103 of the said Act, and the provisions of sections 103 and 104 and Part 10 of the said Act shall apply as if they were herein re-enacted, and in terms made applicable to an offence and forfeiture under this Act.

Clause 4. Any commissioned officer on full pay in the naval service of Her Majesty shall have power, during the period limited by the Order in Council, to stop and examine any British ship in Behring's Sea and to detain her or any portion of her equipment or any of her crew, if in his judgment the ship is being or is preparing to be used or employed in contravention of this section.

Clause 5. If a British ship is found within Behring's Sea having on board thereof fishing or shooting implements or sealskins or bodies of seals, it shall lie on the owner or master of such ship to prove that the ship was not used or employed in contravention of this Act.

Article 3, clause 1. This Act shall apply to the animal known as the fur-seal, and to any marine animal specified in that behalf by an Order in Council under this Act, and the expression "seal" in this Act shall be construed accordingly.

Clause 2. The expression "Behring's Sea" in this Act means the seas known as Behring's Sea within the limits described in an Order under this Act;

Clause 3. The expression "equipment" in this Act includes any boat, tackle, fishing or shooting instruments, and other things belonging to the ship.

Clause 4. This Act may be cited as "The Seal Fishery (Behring's Sea) Act, 1891." Order in Council accordingly has been approved. It will only apply to Behring's Sea, and only that part of Behring's Sea which is east of the Russian-American line: description in separate telegram.

Your instructions are to proceed at once with "Nymph" and "Pheasant" Behring's Sea and cruize to eastward of above-named line as may be necessary. Every ship under British colours which in your judgment is hunting seals or preparing to do so, if you think she is acting in ignorance of the prohibition or believes herself to be outside prohibited waters, you may let her go with warning. If a ship is found deliberately offending, confiscate all her equipment necessary for sealing, and record names of ship and master for prosecution afterwards. If you find American vessel deliberately offending, you are authorized by Convention just signed to arrest her, and you should record name of captain and vessel, and proof of offence, informing American authorities. If you can, it will be your duty to co-operate with American cruisers, who will have similar orders. "Nymph" and "Pheasant" to proceed at once on this duty. "Porpoise" will proceed to Iliuliuk Harbour, Ounalaska, from China, to be under command of "Nymph," who will give copy instructions for guidance. These vessels to remain on this service until close fishing season. Text of American Proclamation in newspapers of 16th June. Ask for further information on any points not clear to you. Acknowledge receipt by telegram.

To Senior Officer, Esquimaux.

With reference to my telegram of 16th June, line of demarcation proceeds in a course nearly south-west through Behring's Strait and Behring's Sea, so as to pass midway between the north-west point of the Island of St. Lawrence and the south-east

point of Cape Tchukotoki to the meridian of 172° west longitude; thence from the intersection of that meridian in a south-westerly direction so as to pass midway between the Island of Attou and the Copper Island of the Kormandorski couplet or group in the North Pacific to the meridian of 167° east longitude, so as to include in the territory conveyed the whole of the Aleutian Islands east of that meridian.

To Commander-in-chief, China.

Order "Porpoise" to proceed to rendezvous at Iliuliuk Harbour, Ounalaska, Behring's Sea, for service on fishery duties; will receive orders from "Nympe." Order necessary charts Hong Kong if "Severn," "Leander," have not got them. Coal ordered from Esquimalt. "Severn," "Leander," "Mercury" are no longer required, and available for ordinary station work. "Porpoise" to report by telegraph date sailing and probable arrival destination.

To Senior Officer, Esquimalt.

Arrange locally to send 1,800 tons coal Iliuliuk Harbour, Ounalaska, Behring's Sea, for "Nympe," "Pheasant," "Porpoise." Half in time to meet "Nympe," "Pheasant" remainder as necessary. "Porpoise" joins from China. Report by telegraph arrangements.

No. 45.

The Marquis of Salisbury to Sir R. Morier.

Sir,

Foreign Office. June 17, 1891.

THE Russian Ambassador to-day explained to me that it was impossible that his Government should forbid seal-hunting during the present year upon Russian lands and in Russian waters, because they had quite recently leased the seal fisheries to a Company, and as the lease had been solemnly confirmed by the Council of State, it was not in their power to go back upon it now.

I explained to his Excellency that the American Government, not possessing the necessary legal power for arresting American vessels in the western part of Behring's Sea, had restricted its consent to that part of Behring's Sea which lay to the east of the line described in the Russian-American Treaty of 1867. It consequently followed that all that we now had occasion to ask of the Russian Government was that they would permit us to turn back and hinder from seal-hunting any vessels under the Russian flag which might appear to the east of the line to which I have referred.

His Excellency replied that it had been the policy of the Russian Government to discourage pelagic seal-hunting altogether, and to confine it to the Russian islands, as far as they were concerned; and that, as a matter of fact, Russian vessels were not in the habit of hunting seals to the east of the Russian-American line, and were certainly never encouraged to do so. He said that he would transmit to M. de Giers a pressing request.

I am, &c.

(Signed) SALISBURY.

No. 46.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 18.)

My Lord,

Washington, June 9, 1891.

I HAVE the honour to inclose copy of the note which, on receipt of your Lordship's telegram of the 5th instant, I addressed to the Acting Secretary of State inclosing a Memorandum, copy of which is likewise inclosed, giving the substance of your Lordship's above-mentioned telegram on the subject of the proposed *modus vivendi* in Behring's Sea.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure 1 in No. 46.

Sir J. Pouncefote to Mr. Wharton.

Sir,

Washington, June 6, 1891.

IMMEDIATELY on the receipt of your note of the 4th instant, relative to the proposed *modus vivendi* in Behring's Sea, I communicated its contents to the Marquis of Salisbury by telegraph.

I have now the honour to inform you that late last night I received a telegraphic reply from his Lordship, of which the substance is contained in the inclosed Memorandum.

I have, &c.

(Signed)

JULIAN PAUNCEFOTE.

Inclosure 2 in No. 46.

Memorandum.

HER Majesty's Government accept the proposal of the President that the *modus vivendi*, if agreed upon, should provide that the naval or other duly commissioned officers of either party may arrest any offending vessel and turn it over at the nearest port of the nation whose flag it carries, for such judicial proceedings as the law provides.

By accepting this proposal, Her Majesty's Government give to the cruizers of the United States the power of supervising the conduct of British subjects in observing the proposed agreement at sea. This is a concession which, in Lord Salisbury's opinion, entitles Her Majesty's Government to ask from the United States the corresponding power of supervising the proceedings of United States' citizens on the Seal Islands. It is on the fidelity with which the condition of not killing more than 7,500 seals is observed that the equality of the proposed agreement depends.

Her Majesty's Government, therefore, regard it as indispensable that they should have the right of satisfying themselves that this condition is fully observed by citizens of the United States. If there be an objection on the part of the United States' Government to issuing an exequatur to a permanent Consul on the Seal Islands, Lord Salisbury suggests that they can under the Statute specially authorize the residence thereon of a British Agent during the present season.

His Lordship will not insist on the condition that Russia shall be a party to the Agreement, but he must earnestly press the United States' Government to extend the prohibition to their citizens and vessels over the entire area of Behring's Sea. In that case Her Majesty's Government, on their part, will similarly extend the prohibition to British subjects and vessels.

Lord Salisbury points out that, if seal-hunting be prohibited on one side of a purely imaginary line drawn in the open ocean, while it is permitted on the other side of the line, it will be impossible for any cases to prove unlawful sealing, or to infer it from the possession of skins or fishing tackle. In conclusion, Lord Salisbury states that Her Majesty's Government consider it a matter of great importance that the two Governments should agree on the terms of arbitration at the same time as on a *modus vivendi*. The suspension of sealing is not a measure which they could repeat another year.

No. 47.

Sir J. Pouncefote to the Marquis of Salisbury.*—(Received June 18.)

My Lord,

Washington, June 9, 1891.

WITH reference to my telegram of the 6th instant, I have the honour to inclose copy of the note which I received on that day from the United States' Government respecting the proposed *modus vivendi* in Behring's Sea.

I have, &c.

(Signed)

JULIAN PAUNCEFOTE.

* Substance telegraphed on June 6.

Inclosure in No. 47.

Mr. Wharton to Sir J. Pouncefote.

Washington, June 6, 1891.

Sir,

I AM directed by the President to say that he has received with great satisfaction the note of Lord Salisbury of to-day's date in reply to my note of the 4th instant. He directs me to ask you to remind Lord Salisbury that the limitation of the killing of seals upon the islands is absolutely within the control of the United States, as a daily count is made by sworn officers, and to inform him that already, in order to insure such control pending these negotiations, the agents of the Treasury Department who have been dispatched to the Seal Islands, have been instructed to stop the killing when 7,500 have been taken, and to await the arrival of further orders; though ordinarily the taking of the seals on the islands does not begin until about the 1st July. The enforcement of an agreed limitation being so fully in the control of the United States, the President is sure that Lord Salisbury will not question the absolute good faith of this Government in observing its stipulation to limit the catch to 7,500. This Government could not, of course, consent to any arrangement that implied such a doubt, or involved any foreign supervision on the islands.

If the prompt and effectual recall of the fleet of Canadian sealers now at sea was as fully within the control of Great Britain, the President would not have suggested the provision for the arrest by either party of vessels violating the prohibition, but would have rested confidently in the assurance given by Her Majesty's Government.

But, in view of the fact that the evidence which the respective Governments will present to the Arbitrators (that happy solution of the pending difficulties shall be attained) must be collected during the present season, and as the definitive Agreement for arbitration cannot be concluded contemporaneously with this Agreement, the President directs me to say that he is quite willing to agree that Her Majesty's Government may send to the Seal Islands with a view to collecting the facts that may be involved in an arbitration, and especially facts relating to seal life and to the results of the methods which have been pursued in the killing of seals, a suitable person or persons to make the necessary observations. The present and the comparative conditions of the rookeries may become an important consideration before Arbitrators in a certain event, and the President would not ask that the evidence upon this subject should be wholly from one side. He is desirous that the prohibition of the killing of seals for this season shall be as wide and absolute as possible, and will not omit the exercise of any power confided to him by law to promote that end.

He directs me to assure Lord Salisbury that he is extremely desirous to bring to a speedy conclusion the pending negotiations for the submission to impartial Arbitrators of the points of difference between the two Governments, and regrets that, for reasons which have been explained to you, an immediate answer cannot be returned to his Lordship's note upon that subject of the 2nd instant. He feels sure, however, that the prompt announcement of an agreement *à la modus vivendi* for this season, while there is yet time to make it mutually effective, will not fail to have a happy influence upon the final negotiation.

It is hoped that authority may be given to you, as the Representative of Her Majesty's Government at this capital, to conclude immediately, upon the passage of the Bill now pending in Parliament, the following agreement:—

For the purpose of avoiding irritating differences, and with a view to promote a friendly settlement of the questions pending between the Government of Great Britain on the one side, and the United States of America on the other, touching the rights of the respective nations in the Behring's Sea, the following agreement is made, which shall have no effect to limit or prejudice the rights or claims of either Power except as therein expressly stipulated and for the time therein limited:—

1. The Government of Great Britain will prohibit until May 1892 the killing of seals in all that part of the Behring's Sea lying east, eastwardly, or south-eastwardly of the line described in Article I of the Convention between the United States and Russia, of the 30th March, 1867, and will promptly take such steps as are best calculated effectively to insure the observance of this prohibition by the subjects and citizens of Great Britain, and all vessels flying its flag.

2. The Government of the United States will prohibit until May 1892 the killing of seals in that part of Behring's Sea above described, and on the shores and islands thereof, the property of the United States (except that 7,500 seals and no more may be taken on the islands), and the Government of the United States will promptly take such

steps as are best calculated effectively to assure the observance of this prohibition by the citizens of the United States, and the vessels flying its flag.

3. All vessels or persons violating the laws of their respective Governments in this regard outside the ordinary territorial limits may be seized and detained by the naval or other duly commissioned officers of either of the High Contracting Parties, but they shall be handed over as soon as practicable to the authorities of the nation to which they respectively belong for trial and for the imposition of the penalties and forfeitures provided by law.

4. In order to facilitate such proper inquiries as Her Majesty's Government may desire to make with a view to the presentation of the case of that Government before Arbitrators, and in the expectation that an agreement for arbitration may ultimately be reached, it is agreed that a suitable person or persons to be designated by Great Britain will be permitted at any time, upon application, to visit or to remain upon the seal islands during the present sealing season, for that purpose.

I have, &c.

(Signed) W. F. WHARTON.

No. 48.

Colonial Office to Foreign Office.—(Received June 18.)

Sir, *Down Street, June 17, 1891.*
WITH reference to your letter of the 10th instant, I am directed by Lord Knutsford to transmit to you a copy of the reply which he caused to be returned to the letter from the High Commissioner for Canada, forwarding a protest from the British Columbia Board of Trade against the prohibition of sealing in Behring's Sea this season. I am, at the same time, to transmit to you, to be laid before the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, forwarding copies of telegraphic protests against the prohibition from the Premier of British Columbia, and from the British Columbian sealers.

Lord Knutsford proposes, if Lord Salisbury concurs, to refer the Governor-General to the despatch which has been sent to him containing the correspondence with the High Commissioner, and to desire him to reply to these telegrams in similar terms to the reply addressed to the High Commissioner on the 13th instant.*

I am, &c.

(Signed) JOHN BRAMSTON.

Inclosure 1 in No. 48.

Lord Stanley of Preston to Lord Knutsford.

My Lord, *Government House, Ottawa, June 3, 1891.*
WITH reference to my telegram of to-day, I have the honour to inclose herewith copies of telegrams from the Premier of British Columbia, and from the British Columbia sealers, protesting against the Bill prohibiting sealing in the Behring's Sea.

I have, &c.

(Signed) STANLEY OF PRESTON.

Inclosure 2 in No. 48.

Mr. Robson to Mr. Dewdney.

(Telegraphic.)

June 2, 1891.

BRITISH Columbia sealers strongly protest against close season this year as it would ruin them, all their preparations and contracts having been made. Please wire me when it is intended closed season shall commence.

* See No. 18, and Inclosure 4 in No 48, *infra*.

(Telegraphic)
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Inclosure 3 in No. 18.

Mr. Cox to Mr. Tupper.

(Telegraphic.)

June 1, 1891.

BRITISH Columbia sealers ask you to protest against Bill prohibiting sealing Behring's Sea. Very unjust to us. Heavy capital invested; would ruin many here.

Inclosure 4 in No. 48.

Colonial Office to Sir C. Tupper.

Sir,

Downing Street, June 13, 1891.

I AM directed by Lord Knutsford to acknowledge the receipt of your letter of the 3rd instant, forwarding copy of a telegram from the President of the Board of Trade of British Columbia, protesting against the proposed prohibition of sealing in Behring's Sea this season.

I am to point out to you, in reply, that as the total cessation of sealing in Behring's Sea will greatly enhance the value of the produce of the coast fishery, Her Majesty's Government do not anticipate that British sealers will suffer to any great extent by exclusion from Behring's Sea.

They will be prepared, however, to consider any case in which it is clearly established that direct loss has been suffered by a British subject through the enforcement of the prohibition against sealing in Behring's Sea.

I am, &c.

(Signed)

JOHN BRAMSTON.

No. 49.

Colonial Office to Foreign Office.—(Received June 18.)

Sir,

Downing Street, June 18, 1891.

I AM directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, a paraphrase of a telegram which was sent to the Governor-General at Canada respecting the nomination of the British members of the Commission of Experts, together with a paraphrase of the reply which has been received.

Lord Knutsford presumes that Lord Salisbury will submit the names of Sir G. Baden-Powell and Mr. Dawson for Her Majesty's approval.

I am, &c.

(Signed)

JOHN BRAMSTON.

Inclosure 1 in No. 49.

Lord Knutsford to Lord Stanley of Preston.

(Telegraphic.)

Downing Street, June 16, 1891.

PLEASE inform me by telegraph as soon as you can of the name of Canadian expert to be associated with Sir George Baden-Powell. The names have to be submitted to Her Majesty. It is proposed that Sir G. Baden-Powell should proceed shortly to Ottawa to consult with your Government.

Inclosure 2 in No. 49.

Lord Stanley of Preston to Lord Knutsford.

My Lord,

Government House, Ottawa, June 17, 1891.

I HAD the honour to send to your Lordship to-day a telegraphic message in cypher, of which the following is the substance:—

With reference to your message of yesterday's date, Dawson, of the Geological Survey of Canada, is recommended by the Dominion Government.

You could not, I think, have a better representative.

Baden-Powell's appointment is concurred in by the Canadian Government.

I have, &c.

(Signed)

STANLEY OF PRESTON.

The Marquis of Salisbury to Sir R. Morier.

Sir, Foreign Office, June 18, 1891.
WITH reference to your despatch of the 10th instant, I transmit herewith, for your Excellency's information, two copies of the text of an Agreement between this country and the United States which Sir J. Pauncefote has been authorized to sign for a *modus vivendi* in Behring's Sea until May 1892.

Sir J. Pauncefote has reported, by telegraph, that this Agreement was signed at Washington on the 15th instant.

As soon as the Agreement is received as signed, a copy will be forwarded to you for communication to the Russian Government.

I am, &c.
(Signed) SALISBURY.

No. 51.

The Marquis of Salisbury to Sir R. Morier.

Sir, Foreign Office, June 19, 1891.
I HAVE received your Excellency's despatch of the 10th instant, reporting a conversation with M. de Giers respecting the proposal that Russia should join in the Agreement for a *modus vivendi* in Behring's Sea which was in negotiation, and has since been concluded between this country and the United States.

Your Excellency's proceedings with regard to this matter are approved by Her Majesty's Government.

I am, &c.
(Signed) SALISBURY.

No. 52.

Foreign Office to Colonial Office.

Sir, Foreign Office, June 19, 1891.
I AM directed by the Marquis of Salisbury to acknowledge the receipt of your letter of the 17th instant, inclosing a copy of a despatch from Lord Stanley of Preston, with copies of telegrams from the Premier of British Columbia and the British Columbian sealers protesting against the prohibition of sealing in Behring's Sea for this season.

I am to request that you will state to the Secretary of State for the Colonies that his Lordship concurs in the reply which it is proposed to return to the Governor-General's despatch.

I am, &c.
(Signed) T. H. SANDERSON.

No. 53.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 20.)

(Telegraphic.) Washington, June 20, 1891.
WITH reference to Behring's Sea negotiations, the return of the President to Washington from the seaside is expected on Tuesday, the 23rd, and at the State Department I am assured that he will then proceed at once with the subjects that remain for negotiation. All preparations for this purpose have been made, and I pressed urgently that during his absence negotiations might still go on; but the President's assent could not be obtained.

No. 54.

The Marquis of Salisbury to Sir J. Pouncefote.

Sir, *Foreign Office, June 20, 1891.*
 I HAVE received your despatch of the 9th instant, inclosing copies of a note and Memorandum addressed by you to the United States' Acting Secretary of State, on the proposed *modus vivendi* in Behring's Sea.

The terms of your communication are approved by Her Majesty's Government.

I am, &c.

(Signed) SALISBURY.

No. 55.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received June 21.)

(Telegraphic.)

Washington, June 21, 1891.

THE United States' Government have furnished me with a copy of the instructions issued to their cruizers, under the 3rd Article of the *modus vivendi*.

I am sending a copy of the note inclosing them to your Lordship by next mail.

The following is a summary of them:—

The "Mohican," the "Thetis," and the "Alert," and possibly other cruizers, will be employed in Behring's Sea.

The "Thetis" is to proceed immediately to Sand Point, the rendezvous of the Canadian sealers, before they enter Behring's Sea, and distribute copies of the President's Proclamation, giving notice to all sealing-vessels, and taking a list of all vessels warned. She will proceed to Unalaska as soon as the Canadian catch has been transhipped at Sand Point, about July 1.

The "Mohican" and "Alert" will proceed at once to the seal islands and cruize two weeks in Behring's Sea, distributing the President's Proclamation, and warn all vessels found engaged in sealing to leave the prohibited waters immediately, recording, by an entry in the vessel's log, that she has been warned. Both will then rendezvous with the "Thetis" at Unalaska, whither all persons and vessels seized are to be sent. A chartered steamer will be ready at this port with a marine guard to assist in handing over the persons and vessels seized to their respective authorities.

The United States' Government would be glad to have a copy of the instructions which have been issued to Her Majesty's ships detailed for service in Behring's Sea.

No. 56.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received June 22.)

My Lord,

Washington, June 12, 1891.

WITH reference to my telegrams of the 9th, 10th, and 11th June, I have the honour to inclose herewith copies of the correspondence referred to therein, relative to a *modus vivendi* in Behring's Sea.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure 1 in No. 56.

Sir J. Pouncefote to Mr. Wharton.

Sir,

Washington, June 8, 1891.

I HAVE the honour to acknowledge the receipt of your note of the 6th instant, containing the terms of a proposed Agreement for a *modus vivendi* during the present seal fishery season in Behring's Sea, which I communicated at once by telegraph to the Marquis of Salisbury.

I have this day received a reply from his Lordship, in which he transmits a draft of the proposed Agreement, with certain modifications and additions.

I beg to inclose a copy of it, and to request that you will be good enough to submit it to your Government for their consideration.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure 2 in No. 56.

Mr. Wharton to Sir J. Pouncefote.

Sir,

Department of State, Washington, June 9, 1891.

I AM directed by the President, in response to your note of the 8th June, delivered this morning, to say that he regrets that at the moment when the two Governments seemed to have reached an agreement in this matter, which is one calling for the utmost promptness of action, new conditions should be suggested by Lord Salisbury. With the acceptance of the proposition submitted in my last note relating to permission to British agents to visit the seal islands, an agreement had been reached upon all the conditions that had been previously discussed or suggested in this connection. The President does not object to the modification of his proposal suggested in the first Article submitted by you, for he assumes that the terms used, while not as strong perhaps as those suggested by this Government, do fully commit the Government of Great Britain to prompt and energetic measures in the repression of the killing of seals by the subjects and vessels of that nation.

The proposals submitted by you on the 3rd June contain this clause:—

"During the period above specified the United States' Government shall have the right to kill 7,500 seals." Now his Lordship adds a most extraordinary and not altogether clear condition (I quote): "to be taken on the shores and islands as food skins, and not for tax or shipment."

This new condition is entirely inadmissible, and, in the opinion of the President, inconsistent with the assent already given by Her Majesty's Government to the proposition of the United States in that behalf.

It had been particularly explained in the correspondence that the lessees of the privilege of taking seals upon the islands assumed obligations to supply to the natives the food and other things necessary for their subsistence and comfort, and that the taking of the limited number of seals was not only to supply flesh to the natives, but, in some part, to recompense the Company for furnishing other necessary articles of food, clothing, and fuel. The President is surprised that it should now be suggested that none of these skins should be removed from the islands, and he cannot understand how British interests can be promoted by allowing them to go to waste.

The previous communications of Her Majesty's Government had, in the opinion of President, concluded this matter.

As to the third clause of your proposition, I am directed to say that the contention between the United States and Great Britain has relation solely to the respective rights of the two Governments in the waters of Behring's Sea outside of the ordinary territorial limits, and the stipulations for the co-operation of the two Governments during this season have, of course, the same natural limitation.

This is recognized in Articles 1 and 2 of your proposal, for you will observe that the obligation assumed by Her Majesty's Government is to prohibit seal-killing in a certain part of Behring's Sea, whereas the obligation assumed in the second Article by the Government of the United States is to prohibit seal-killing in the same part of Behring's Sea, and the shores and islands thereof the property of the United States.

The killing, therefore, of seals on the islands, or within the territorial waters of the United States, falls only within the prohibition of this Government. His Lordship will also see that it is altogether beyond the power of the President to stipulate that an offence committed in the undisputed territory of the United States against its laws shall be triable only in the Courts of another nation. The extension of this clause to the territory and territorial waters of the United States, therefore, involves an insuperable legal difficulty on our part, and a concession which no independent Government could be expected to make. The mutual police which is to be stipulated for could not in the nature of things apply to the territorial waters within the undisputed and exclusive jurisdiction of either.

To the fourth clause, which is in substance the same as the proposition made by this Government, no objection is interposed.

As to the fifth clause, I am directed to say that the President regards the proposition to appoint a Joint Commission to investigate and report as to what Regulations or International Agreements are necessary to preserve the seal fisheries to be one of the incidents of the Agreement for Arbitration, and to have no proper place here. This distinction seems to have been recognized by his Lordship, and his proposal of such a Commission was made part of the separate note discussing the terms of arbitration presented by you on the 3rd June, and has never until now appeared in the corre-

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spendence relating to a *modus vivendi*. The President thinks the fourth clause, which has been accepted, makes ample present provision, but will give a full consideration to the suggestion of a Joint Commission in connection with the negotiation for arbitration.

To the sixth and last clause, the President directs me to say that so far as he is aware no vessel bearing the Russian flag has at any time intruded into the waters described in the proposed Agreement. He is entirely in sympathy with the expressed desire of Lord Salisbury to secure such limitations as to the hunting of seals in the whole of Behring's Sea as will preserve to mankind this valuable industry, but he does not think that an agreement to unite in any joint note to Russia should be interposed here and at this time. Moreover, Lord Salisbury will perceive that, in the present state of the American law, if Russia should ask for reciprocal action by this Government west of the Treaty line, the President would be confronted with the same difficulty that prevented him from extending the Agreement with Her Majesty's Government to the whole of Behring's Sea.

As the President understands, the adhesion of the two Governments has been given in this correspondence to the following propositions:—

"For the purpose of avoiding irritating differences, and with a view to promote friendly settlement of the questions pending between the two Governments touching their respective rights in Behring's Sea, and for the preservation of the seal species, the following Agreement is made without prejudice to the rights or claims of either party:

"Article 1. Her Majesty's Government will prohibit until May next seal-killing in that part of Behring's Sea lying eastward of the line of demarcation described in Article I of the Treaty of 1867 between the United States and Russia, and will promptly use its best efforts to insure the observance of this prohibition by British subjects and vessels.

"Art. 2. The United States' Government will prohibit seal-killing for the same period in the same part of Behring's Sea, and on the shores and islands thereof the property of the United States (in excess of 7,500 to be taken on the islands for the subsistence and care of the natives), and will promptly use its best efforts to insure the observation of this prohibition by United States' citizens and vessels.

"Art. 3. Every vessel or person offending against this prohibition in the said waters of Behring's Sea, outside of the ordinary territorial limits of the United States, may be seized and detained by the naval or other duly commissioned officers of either of the High Contracting Parties; but they shall be handed over as soon as practicable to the authorities of the nation to which they respectively belong, who shall alone have jurisdiction to try the offence and impose the penalties for the same. The witnesses and proofs necessary to establish the offence shall also be sent with them.

"Art. 4. In order to facilitate such proper inquiries as Her Majesty's Government may desire to make with a view to the presentation of the Case of that Government before Arbitrators, and in expectation that an agreement for arbitration may be arrived at, it is agreed that suitable persons designated by Great Britain will be permitted at any time, upon application, to visit or to remain upon the seal islands during the present sealing season for that purpose."

The President directs me to inform you that the Government of the United States is ready to conclude this Agreement if it can be put into force immediately. The value of such an Agreement to the United States is daily lessening, and the President therefore feels that he must ask that the negotiations be brought to a speedy determination.

I have, &c.

(Signed) W. F. WHARTON.

Inclosure 3 in No. 56.

Sir J. Pouncefote to Mr. Wharton.

Sir,

Washington, June 10, 1891.

I HAVE the honour to acknowledge the receipt of your note of the 9th June, delivered this day, in reply to my note of the 8th, in which I transmitted, for the consideration of your Government, the draft of the proposed Agreement for a *modus vivendi* during the present fur-seal fishery season in Behring's Sea, with certain modifications and additions suggested therein by the Marquis of Salisbury.

I have telegraphed the substance of your note under reply to his Lordship, and I hope to be able to communicate to you his observations thereon in the course of

to-morrow or the following day. In the meanwhile, with reference to the complaint that new conditions should have been suggested at this stage by Lord Salisbury, I would beg leave to point out that all his Lordship's suggestions are obviously dictated by a desire to render the *modus vivendi* more effective, and to do all that is possible in the common interest for the protection and preservation of the seal species during the present season.

In my humble opinion, therefore, it is to be regretted that those suggestions should not have commended themselves to the favourable consideration of the President. Thus, the object of the proposed insertion in Article 2 of the words, "food skins, and not for tax and shipment," which you qualify as extraordinary, was not to prevent the export and sale of the 7,500 food skins, of which the proceeds were intended to cover the cost of food, clothing, fuel, and other necessities for the natives. Its sole object was to stop the injurious practice of driving and redriving the herds to the killing ground for selection, which is resorted to in the case of seals killed for "tax and shipment," and is stated by experts to be the main cause of the depletion of male seal life on the islands.

I would refer you on this point to the Report of Special Treasury Agent Ch. J. Goff, laid before Congress (Ex. Doc. 49), pp. 2 and 29. Also to the Report of Assistant Treasury Agent Joseph Murray, at p. 8, and that of Assistant Treasury Agent A. W. Lavender, at p. 9 of the same Congressional Paper.

As regards Lord Salisbury's proposal of the Joint Commission, it is by no means a new one. It has long been called for by public opinion in both countries. It was inserted among Lord Salisbury's last proposals for the Arbitration Agreement, in the expectation that the latter document would be signed contemporaneously with the Agreement for a *modus vivendi*; but, as your Government is not prepared to bring the arbitration negotiation to a conclusion without further consideration, and as it is of the highest importance that the Joint Commission should be appointed at once, in order to enter upon its functions during the present fishery season, Lord Salisbury has had no alternative but to urge the insertion of the Article providing for a Joint Commission in the Agreement for the *modus vivendi*, of which it should, in the opinion of Her Majesty's Government, be a component part. The objection of the President to that Article in the *modus vivendi* appears to me to create the greatest difficulty which has yet presented itself in the course of this negotiation, and I earnestly hope that if Lord Salisbury should be disposed to waive the other conditions to which exception is taken in your note, the President will on his part accede to his Lordship's wishes in respect of the Joint Commission.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure 4 in No. 56.

Sir J. Pauncefote to Mr. Wharton.

Sir,

Washington, June 11, 1891.

WITH reference to my note of yesterday, and especially to the concluding part of it, I have the honour to inform you that I have this day received by telegraph from the Marquis of Salisbury a reply to the proposal for a *modus vivendi* during the present fur-seal fishery season in Behring's Sea contained in your note of the 9th June.

His Lordship states that the President's refusal to adopt his suggestion with respect to Russia renders the proposed *modus vivendi* much less valuable, and that he is reluctant to abandon the words which he had proposed for insertion in Article 2 in relation to the reservation of the 7,500 seals to be killed on the islands.

Nevertheless, in view of the urgency of the case, his Lordship is disposed to authorize me to sign the Agreement in the precise terms formulated in your note of the 9th June, provided the question of a Joint Commission be not left in doubt, and that your Government will give an assurance in some form that they will concur in a reference to a Joint Commission to ascertain what permanent measures are necessary for the preservation of the fur-seal species in the Northern Pacific Ocean.

I have the honour, therefore, to inquire whether the President is prepared to give that assurance, and, if so, I shall, on receipt of it, lose no time in communicating it by telegraph to Lord Salisbury, and in applying to his Lordship for authority to sign the proposed Agreement.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure 5 in No. 56.

Mr. Wharton to Sir J. Pouncefote.

Sir,

Department of State, Washington, June 11, 1891.

I HAVE the honour to acknowledge the receipt of your note of to-day's date, and, in reply, I am directed by the President to say that the Government of the United States, recognizing the fact that full and adequate measures for the protection of seal life should embrace the whole of Behring's Sea and portions of the North Pacific Ocean, will have no objection in agreeing, in connection with Her Majesty's Government, to the appointment of a Joint Commission to ascertain what permanent measures are necessary for the preservation of the seal species in the waters referred to; such an Agreement to be signed simultaneously with the Convention for arbitration, and to be without prejudice to the questions to be submitted to the Arbitrators.

A full reply to your note of the 3rd June, relating to the terms of arbitration, will not be long delayed.

I have, &c.

(Signed) WILLIAM F. WHARTON.

No. 57.

Sir E. Malet to the Marquis of Salisbury.—(Received June 22.)

My Lord,

Berlin, June 18, 1891.

WITH reference to your Lordship's despatch of the 3rd instant, and to mine of the 12th instant, I have the honour to inform your Lordship that Baron von Marschall told me to-day that he intends to publish in the official Gazette a translation of the Agreement between England and the United States in regard to the Behring's Sea seal fishery, and to accompany it with an injunction to German subjects to observe its regulations.

I have, &c.

(Signed) E. B. MALET.

No. 58.

The Marquis of Salisbury to Sir J. Pouncefote.

(Telegraphic.)

Foreign Office, June 22, 1891.

I HAVE received your telegram of yesterday, containing a summary of the instructions issued by the United States' Government to their cruisers for carrying into effect the *modus vivendi* Agreement in Behring's Sea.

The following are the instructions issued to the Senior Naval Officer of Her Majesty's ships at Esquimalt:—

He is to proceed with Her Majesty's ship "Nympe" and Her Majesty's ship "Pheasant" to Behring's Sea, to cruise to the eastward of the line of demarcation as he may find necessary, and to warn all British ships which he may find acting contrary to the Agreement between the two Governments, and in ignorance of its provisions. Should he find a ship deliberately offending, her sealing equipment is to be confiscated, and the names of the ship and master are to be recorded for the purpose of prosecution subsequently. Should he find an American ship deliberately offending, he is to arrest her, the names of the captain and vessel and proof of offence are to be recorded, and the American authorities are to be informed.

He has orders to co-operate with the American cruisers.

Her Majesty's ship "Porpoise" will be also under his command, and has for that purpose been ordered to join him from the China Station.

Admiralty to Foreign Office.—(Received June 23.)

Sir,

Admiralty, June 22, 1891.

MY Lords Commissioners of the Admiralty having received a copy of Sir J. Pauncefoot's telegraphic despatch of the 21st June, 1891, giving the substance of the instructions issued by the Government of the United States to cruizers about to proceed to Behring's Sea, and requesting that a copy of the British instructions may be sent, I am commanded by their Lordships to transmit herewith a copy of the telegraphic instructions sent to the Senior Naval Officer at Esquimalt on the 16th June.*

From this it will be seen that the five clauses of Article 1 and four clauses of Article 3 of "The Seal Fishery (Behring's Sea) Act, 1891," have been telegraphed in full, together with the definition of the Russian-American line of demarcation, with additional instructions, as marked in red ink, in the margin of the inclosure to this letter.

Her Majesty's ships "Nymph" and "Pheasant" will, under these orders, leave Esquimalt on or about the 26th instant, and will be joined by Her Majesty's ship "Porpoise," from China, about the 21st July.

I am, &c.

(Signed) EVAN MACGREGOR.

No. 60.

Council Office to Foreign Office.—(Received June 24.)

Sir,

Council Office, Whitehall, June 24, 1891.

I AM directed by the Lord President of the Council to transmit to you the accompanying Order of Her Majesty in Council of the 23rd instant, entitled, "The Seal Fishery (Behring's Sea) Order in Council, 1891."

Directions have been given for the publication of this Order to-day in a Supplement to yesterday's "London Gazette," and I am to request that you will lay the same before the Secretary of State for Foreign Affairs.

I am, &c.

(Signed) C. J. PEEL.

Inclosure in No. 60.

At the Court at Windsor, the 23rd day of June, 1891.

Present :

THE QUEEN'S MOST EXCELLENT MAJESTY.

Lord President.
Marquis of Salisbury.

Earl of Limerick.
Lord Arthur Hill.

WHEREAS by "The Seal Fishery (Behring's Sea) Act, 1891," it is enacted that Her Majesty the Queen may by Order in Council prohibit the catching of seals by British ships in Behring's Sea, or such part thereof as is defined by the said Order, during the period limited by the Order :

And whereas the expression "Behring's Sea" in the said Act means the seas known as Behring's Sea within the limits described in an Order under the said Act :

Now, therefore, Her Majesty, in virtue of the powers vested in her by the said recited Act, by and with the advice of her Privy Council, is hereby pleased to order, and it is hereby ordered, as follows :—

1. This Order may be cited as the Seal Fishery (Behring's Sea) Order in Council, 1891.

2. From and after the 24th day of June, 1891, until the 1st day of May, 1892, the catching of seals by British ships in Behring's Sea as hereinafter defined is hereby prohibited.

* See Inclosure in No. 44.

3. For the purposes of the said recited Act and of this Order the expression "Behring's Sea" means so much of that part of the Pacific Ocean known as Behring's Sea as lies between the parallel of 65° 30' north latitude and the chain of the Aleutian Islands, and eastward of the following line of demarcation, that is to say, a line commencing at a point in Behring's Straits on the said parallel of 65° 30' north latitude, at its intersection by the meridian which passes midway between the Islands of Krusenstern or Innalook and the Island of Ratmanoff or Noonarbook; and proceeding thence in a course nearly south-west through Behring's Straits and the seas known as Behring's Sea, so as to pass midway between the north-west point of the Island of St. Lawrence and the south-east point of Cape Choukotski to the meridian of 172° west longitude; thence from the intersection of that meridian in a south-westerly direction, so as to pass midway between the Island of Attou and the Copper Island of the Kormandorski couplet or group in the North Pacific Ocean, to the meridian of 193° west longitude.

(Signed) C. L. PEEL.

No. 61.

Sir R. Morier to the Marquis of Salisbury.—(Received June 24.)

(Telegraphic.)

St. Petersburg, June 24, 1891.

I HAVE the honour to inquire of your Lordship whether, by the 3rd section of the Agreement to prohibit the killing of seals in certain parts of the Behring's Sea, the two Contracting Parties are empowered to seize and detain vessels other than British or American, as also persons other than American citizens or British subjects.

No. 62.

The Marquis of Salisbury to Sir G. Baden-Powell and Dr. Dawson.

Gentlemen:

Foreign Office, June 24, 1891.

THE having been graciously pleased to appoint you to be her Commissioners for the purpose of inquiring into the conditions of seal life in Behring's Sea and other parts of the North Pacific Ocean, I transmit to you herewith Her Majesty's Commission under the Sign Manual to that effect.

The main object of your inquiry will be to ascertain, "What international arrangements, if any, are necessary between Great Britain and the United States, and Russia or any other Power, for the purpose of preserving the fur-seal race in Behring's Sea from extermination?"

Her Majesty's Government have proposed to the United States that the investigation should be conducted by a Commission to consist of four experts, of whom two shall be nominated by each Government, and a Chairman, who shall be nominated by Arbitrators.

If the Government of the United States agree to this proposal, you will be the Delegates who will represent Great Britain in the Commission.

But in the meanwhile it is desirable that you should at once commence your examination of the question, and that for that purpose you should proceed as soon as you conveniently can to Vancouver, from whence the Lords Commissioners of the Admiralty have been requested to provide for your conveyance to the various sealing grounds and other places which it may be expedient for you to visit.

Application has been made to the United States' Government for permission for you to visit the seal islands under their jurisdiction, and a similar request will be addressed to the Russian Government in the event of your finding it necessary to visit the Commander Islands and other Russian sealing grounds.

Your attention should be particularly devoted to ascertaining—

1. The actual facts as regards the alleged serious diminution of seal life on the Pribyloff Islands, the date at which such diminution began, the rate of its progress, and any previous instance of a similar occurrence.

2. The causes of such diminution; whether, and to what extent, it is attributable—

(a.) To a migration of the seals to other rookeries.

(b.) To the method of killing pursued on the islands themselves.

(c.) To the increase of sealing upon the high seas, and the manner in which it is pursued.

I need scarcely remind you that your investigation should be carried on with strict impartiality, that you should neglect no sources of information which may be likely to assist you in arriving at a sound conclusion, and that great care should be taken to sift the evidence that is brought before you.

It is equally to the interest of all the Governments concerned in the sealing industry that it should be protected from all serious risk of extinction in consequence of the use of wasteful and injudicious methods.

You will be provided with all the documentary evidence in the possession of the Department which is likely to be of assistance to you in the prosecution of your inquiry.

Mr. A. Froude has been appointed to be your Secretary, and will accompany you on your tour.

Separate despatches will be addressed to you with regard to the expenses of your mission, and the form in which your correspondence with this Office should be conducted.

I am, &c.
(Signed) SALISBURY.

No. 63.

[Sir J. Pouncefote to the Marquis of Salisbury.—(Received June 25.)]

My Lord,

Washington, June 16, 1891.

WITH reference to your Lordship's telegram of the 13th instant, authorizing me to sign the Agreement for a *modus vivendi* in Behring's Sea, and instructing me at the same time to record that I signed it on the clear understanding that the Commission of Experts would be appointed without delay to visit the seal islands, I have now the honour to transmit to your Lordship a copy of a note which I addressed to the Honourable William Wharton, Acting Secretary of State, in the above sense, as well as a copy of his reply thereto.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

Inclosure 1 in No. 63.

Sir J. Pouncefote to Mr. Wharton.

Sir,

Washington, June 13, 1891.

I LOST no time in telegraphing to the Marquis of Salisbury the contents of your note of the 11th June, conveying the assent of your Government to the appointment, in connection with Her Majesty's Government, of a Joint Commission for the purposes mentioned in my note to you of the same date, such Agreement to be signed simultaneously with the Convention for Arbitration, and to be without prejudice to the questions to be submitted to the Arbitrators. I informed his Lordship, at the same time, that in handing me the note under reply you had assured me that the President was anxious that the Commission should be appointed in time to commence its work this season, and that your Government would, on that account, use their utmost efforts to expedite the signature of the Arbitration Convention.

I now have the honour to inform you that I have this day received a telegraphic reply from his Lordship, in which, while conveying to me authority to sign the proposed Agreement for a *modus vivendi* contained in your note of the 9th June, Lord Salisbury desires me to place on record that it is signed by me on the clear understanding that the Joint Commission will be appointed without delay.

On that understanding, therefore, I shall be prepared to attend at the State Department, for the purpose of signing the Agreement, at such time as you may be good enough to appoint.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

Inclosure 2 in No. 63.

Mr. Wharton to Sir J. Pouncefote.

Sir, *Department of State, Washington, June 13, 1891.*
 THE President directs me to say, in response to your note of this date, that his assent to the proposition for a Joint Commission, as expressed in my note of the 9th June, was given in the expectation that both Governments would use every proper effort to adjust the remaining points of difference in the general correspondence relating to arbitration, and to agree upon the definite terms of a submission, and of the appointment of a Joint Commission, without unnecessary delay.

He is glad that an agreement has finally been reached for the pending season, and I beg to say that, if you will call at the Department at 10 o'clock on Monday next, I will be glad to put into writing and give formal attestation to the *modus vivendi* which has been agreed upon.

I have, &c.
 (Signed) W. F. WHARTON.

No. 64.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received June 25.)

My Lord, *Washington, June 16, 1891.*
 I HAVE the honour to transmit herewith copy of the Agreement for the *modus vivendi* in Behring's Sea, which I signed yesterday in accordance with the instructions contained in your Lordship's telegram of the 14th instant.

I will forward the original Agreement by next mail.

I have, &c.
 (Signed) JULIAN PAUNCEFOTE.

Inclosure in No. 64.

Agreement between the Government of Her Britannic Majesty and the Government of the United States for a Modus Vivendi in relation to the Fur-seal Fisheries in Behring's Sea.

FOR the purpose of avoiding irritating differences, and with a view to promote the friendly settlement of the questions pending between the two Governments touching their respective rights in Behring's Sea, and for the preservation of the seal species, the following Agreement is made without prejudice to the rights or claims of either party:—

1. Her Majesty's Government will prohibit, until May next, seal-killing in that part of Behring's Sea lying eastward of the line of demarcation described in Article I of the Treaty of 1867 between the United States and Russia, and will promptly use its best efforts to insure the observance of this prohibition by British subjects and vessels.

2. The United States' Government will prohibit seal-killing for the same period in the same part of Behring's Sea, and on the shores and islands thereof the property of the United States (in excess of 7,500 to be taken on the islands for the subsistence and use of the natives), and will promptly use its best efforts to insure the observance of this prohibition by United States' citizens and vessels.

3. Every vessel or person offending against this prohibition in the said waters of Behring's Sea outside of the ordinary territorial limits of the United States may be seized and detained by the naval or other duly commissioned officers of either of the High Contracting Parties, but they shall be handed over as soon as practicable to the authorities of the nation to which they respectively belong, who shall alone have jurisdiction to try the offence and impose the penalties for the same. The witnesses and proofs necessary to establish the offence shall also be sent with them.

4. In order to facilitate such proper inquiries as Her Majesty's Government may desire to make, with a view to the presentation of the Case of that Government before Arbitrators, and in expectation that an Agreement for arbitration may be arrived at, it is agreed that suitable persons designated by Great Britain will be permitted at any time, upon application, to visit or to remain upon the seal islands during the present sealing season for that purpose.

Signed and sealed in duplicate at Washington, this 15th day of June, 1891, on behalf of their respective Governments, by Sir Julian Pauncefote, G.C.M.G., K.C.B., Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, and William F. Wharton, Acting Secretary of State of the United States.

(Signed)

JULIAN PAUNCEFOTE.
WILLIAM F. WHARTON.

No. 65.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 25.)

My Lord,

Washington, June 16, 1891.

WITH reference to my telegram of yesterday's date, I have the honour to transmit herewith to your Lordship copy of the Proclamation which has been issued by the President giving effect to the Agreement for a *modus vivendi* in Behring's Sea for the present season.

I have, &c.

(Signed)

JULIAN PAUNCEFOTE.

Inclosure in No. 65.

Modus Vivendi respecting the Fur-seal Fisheries in Behring's Sea.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A Proclamation.

WHEREAS an Agreement for a *modus vivendi* between the Government of the United States and the Government of Her Britannic Majesty, in relation to the fur-seal fisheries in Behring's Sea, was concluded on the 15th day of June, in the year of our Lord 1891, word for word as follows:—

"Agreement between the Government of the United States and the Government of Her Britannic Majesty for a Modus Vivendi in relation to the Fur-seal Fisheries in Behring's Sea.

"For the purpose of avoiding irritating differences, and with a view to promote the friendly settlement of the questions pending between the two Governments touching their respective rights in Behring's Sea, and for the preservation of the seal species, the following Agreement is made without prejudice to the rights or claims of either party.

"1. Her Majesty's Government will prohibit, until May next, seal-killing in that part of Behring's Sea lying eastward of the line of demarcation described in Article I of the Treaty of 1867 between the United States and Russia, and will promptly use its best efforts to insure the observance of this prohibition by British subjects and vessels.

"2. The United States' Government will prohibit seal-killing for the same period in the same part of Behring's Sea, and on the shores and islands thereof the property of the United States (in excess of 7,500 to be taken on the islands for the subsistence and care of the natives), and will promptly use its best efforts to insure the observance of this prohibition by United States' citizens and vessels.

"3. Every vessel or person offending against this prohibition in the said waters of Behring's Sea outside of the ordinary territorial limits of the United States may be seized and detained by the naval or other duly commissioned officers of either of the High Contracting Parties, but they shall be handed over as soon as practicable to the authorities of the nation to which they respectively belong, who shall alone have jurisdiction to try the offence and impose the penalties for the same. The witnesses and proofs necessary to establish the offence shall also be sent with them.

"4. In order to facilitate such proper inquiries as Her Majesty's Government may desire to make, with a view to the presentation of the Case of that Government before Arbitrators, and in expectation that an Agreement for arbitration may be arrived at, it is agreed that suitable persons designated by Great Britain will be permitted at any time, upon application, to visit or to remain upon the seal islands during the present sealing season for that purpose.

"Signed and sealed in duplicate at Washington, this 15th day of June, 1891, on behalf of their respective Governments, by William F. Wharton, Acting Secretary of State of the United States, and Sir Julian Pauncefote, G.C.M.G., K.C.B., Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary.

(Seal) "WILLIAM F. WHARTON.
(Seal) "JULIAN PAUNCEFOTE."

Now, therefore, be it known that I, Benjamin Harrison, President of the United States of America, have caused the said Agreement to be made public, to the end that the same and every part thereof may be observed and fulfilled with good faith by the United States of America and the citizens thereof.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, this 15th day of June, in the year of our Lord 1891, and of the Independence of the United States the 115th.

(Seal) (Signed) BENJ. HARRISON.

By the President:
(Signed) WILLIAM F. WHARTON,
Acting Secretary of State.

No. 66.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 25.)

(Telegraphic.)

Washington, June 25, 1891.

YOUR Lordship's telegram of the 2nd instant: Behring's Sea arbitration.

I have this evening received the following note from the Acting Secretary of State:—

[See Inclosure in Sir J. Pauncefote's despatch of the 26th June: Inclosure in
No. 82, *infra.*]

No. 67.

The Marquis of Salisbury to Sir R. Morier.

(Telegraphic.)

Foreign Office, June 25, 1891.

IN reply to your telegram of yesterday, I have to inform you that the Agreement for a *modus vivendi* in Behring's Sea is only applicable to the subjects or citizens of the two Contracting Powers.

General jurisdiction over the whole region specified in the Agreement has been claimed by the United States, but this claim has been disputed by Her Majesty's Government.

No. 68.

The Marquis of Salisbury to Sir J. Pauncefote.

(Telegraphic.)

Foreign Office, June 26, 1891.

SIR GEORGE BADEN-POWELL is waiting to start on his mission to inquire into the conditions of seal life in Behring's Sea, and the season is running out.

You should urge the United States' Government to give the necessary permission to the British Commissioners to visit the Pribyloff Islands without delay.

No. 69.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received June 26.)

(Telegraphic.)

Washington, June 26, 1891.

THE State Department have informed me, in reply to the inquiry which I have made, in conformity with the instructions contained in your Lordship's telegram of

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to-day's date, that the formal permission to Her Majesty's Commissioners to land on the Pribyloff Islands will be sent to me to-day.

I propose to send this permission to Consul-General Booker, and to instruct him to deliver it to Sir George Baden-Powell immediately on the arrival of the latter in New York.

No. 70.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received June 26.)

(Telegraphic.)

Washington, June 26, 1891.

WITH reference to my telegram of to-day, I have just received the formal permission for the Commissioners to visit the seal islands. It consists of a letter from the Acting Secretary of the Treasury to Mr. Williams, the Special Agent in charge of the seal fisheries, instructing him to afford Sir G. Powell and Professor Dawson the facilities desired to enable them to accomplish the object of their mission as defined in Article 4 of the *modus vivendi* of the 15th instant.

No. 71.

The Marquis of Salisbury to Sir J. Pouncefote.

Sir,

Foreign Office, June 26, 1891.

I HAVE received your despatch of the 12th instant, inclosing copies of correspondence with the State Department relative to the Agreement for a *modus vivendi* in Behring's Sea.

Your notes to the Acting Secretary of State on this subject are approved by Her Majesty's Government.

I am, &c.
(Signed) SALISBURY.

No. 72.

The Marquis of Salisbury to Sir J. Pouncefote.

Sir,

Foreign Office, June 26, 1891.

WITH reference to your telegram of the 21st instant, and to my reply of the 22nd instant, I transmit herewith, for your information, and for communication to the Government of the United States, a copy of the telegraphic instructions sent to the Senior British Naval Officer on the North Pacific Station with regard to the steps to be taken to prohibit the killing of seals in certain specified portions of Behring's Sea.*

I am, &c.
(Signed) SALISBURY.

No. 73.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received June 27.)

(Telegraphic.)

Washington, June 27, 1891.

WITH reference to my telegram of the 25th instant, relative to the Behring's Sea arbitration, I venture to submit, for your Lordship's consideration, the following clause dealing with the question of compensation, instead of that proposed by the Acting Secretary of State in his note of the 25th:—

"Article 7. Either Government may submit to the Arbitrators any claim for compensation which it may desire to prefer against the other Government, in respect of any losses or injuries, in relation to the fur-seal fishery in Behring's Sea, for which such other Government may be legally liable.

"The Arbitrators shall decide on the legality of every such claim, and if it shall be established, they may award such compensation as in their judgment shall seem equitable."

If the above meets with your Lordship's approval, may I sound the United States Government as to whether they are prepared to accept it?

No. 74.

The Marquis of Salisbury to Sir G. Baden-Powell and Dr. Dawson.

Gentlemen,

Foreign Office, June 27, 1891.

I HAVE to inform you that a telegram has been received this morning from Her Majesty's Minister at Washington stating that he has received the formal permission of the Government of the United States for your visiting the seal islands in Behring's Sea, under Article 4 of the *modus vivendi* Agreement signed at Washington on the 15th instant.

It consists of a letter to the Government Agent in charge of the islands, directing him to afford you every facility in the accomplishment of your mission.

Sir Julian Pauncefote proposes to forward this letter to the care of Her Majesty's Consul-General at New York, for delivery to the British Commissioner, who is expected to arrive there per steam-ship "Etruria" about the 4th July.

I am, &c.

(Signed) SALISBURY.

No. 75.

Sir R. Morier to the Marquis of Salisbury.—(Received June 29.)

My Lord,

St. Petersburg, June 19, 1891.

M. DE GIERS having, when I was at his country place Sunday week, promised to let me have an answer on the subject of the Behring's Sea seal fisheries in the course of last week, and Saturday having come without my receiving a reply, I wrote an urgent letter to his Excellency Saturday night, reminding him of his promise.

On Monday I learnt his Excellency was coming up to town, and on Wednesday I called at the Foreign Office to inquire whether any decision had been come to. I pointed out to his Excellency that your Lordship's last proposal communicated to him in my note of the 29th May (10th June) seemed to me to have much simplified matters, and that I regretted that there seemed so little prospect of a decision being come to by the Imperial Government. His Excellency said that he regretted more than he could say that he had not as yet succeeded in obtaining an answer from the Minister of Domains; he had in a large measure come up from Finland to see what could be done by personal discussion with M. Ostrovsky and the Representative of the Ministry of Marine—that Department having started difficulties as to the ships that would be required to enforce the arrangement, and he had arranged a meeting for this purpose that evening.

I did not see M. de Giers prior to his return to Finland, but M. Shishkine, whom I saw to-day, told me that the question had been referred to a Committee, consisting of himself as Representative of the Ministry for Foreign Affairs, M. Wyshniakoff, the Under-Secretary of the Ministry of Domains, as the Representative of that Department, and Admiral Titacheff as the Representative of the Ministry of Marine.

He promised to let me know as soon as the result was come to, but as yet I have heard nothing from him. He was himself, no less than M. de Giers, most strongly in favour of Russia's joining in the proposed action not only for the sake of a year's close season, but because, if the Russian Government did not join with us and herself enforce a close season, the sealing boats driven out from the waters to the east of the line of 180° would all swarm westwards and make war on Russian seals. The present difficulty seemed to be that the Ministry of Marine refused to provide the coals necessary for the naval operations; light cruisers would not suffice; one large man-of-war at least would be required to accompany the cruisers, and act as a central point from which to direct the operations of the latter, but this would require her to be continuously under steam for several months, and this was an expense which at present they were not prepared to meet, but he had every hope that the matter would nevertheless be settled in a satisfactory manner.

I have, &c.

(Signed) R. B. D. MORIER.

P.S. June 24.—I have not yet heard from M. Shishkine, and having called at the Ministry to-day, which is the ordinary day of reception, I did not find his Excellency in.

R. B. D. M.

No. 76.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received July 2.)

My Lord,

Washington, June 21, 1891.

WITH reference to my telegram of this day's date, giving a summary of the instructions issued by the United States' Navy Department in pursuance of the Agreement between Her Majesty's Government and the United States' Government for a *modus vivendi* in Behring's Sea, I have now the honour to transmit to your Lordship a copy of the note which I received from the Acting Secretary of State, communicating the above-mentioned instructions.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

Inclosure 1 in No. 76.

Mr. Wharton to Sir J. Pauncefote.

Sir,

Department of State, Washington, June 20, 1891.

I HAVE the honour to transmit to you herewith copies of the instructions that have been issued by the Secretary of the Navy in pursuance of the Proclamation of the President, of the 15th June, 1891, relative to the *modus vivendi* respecting the fur-seal fisheries in Behring's Sea.

This Government would be pleased to receive, in exchange, copies of such instructions as may be issued by Her Britannic Majesty's Government on the same subject.

I have, &c.
(Signed) W. F. WHARTON.

Inclosure 2 in No. 76.

Mr. Tracy to Mr. Wharton.

Sir,

Navy Department, Washington, June 19, 1891.

I HAVE the honour to transmit herewith a copy of the instructions which have been issued by the Navy Department in pursuance of the Proclamation of the President of the 15th June, 1891, containing the *modus vivendi*, with a view to their exchange, should it be deemed desirable, for a copy of such instructions as may be issued by the British Government on the same subject.

Very respectfully,
(Signed) B. F. TRACY, Secretary of the Navy.

Inclosure 3 in No. 76.

Mr. Tracy to Commanding Officer of United States' Steamer "Thetis," San Francisco, California.

(Telegraphic.)

Washington, June 15, 1891.

PROCLAMATION of President closing Behring's Sea has been telegraphed to Collector of Port of San Francisco. Make immediate application for copies as soon as received; proceed with "Thetis" to Sand Point, Popoff Island, distribute the Proclamation among the sealing vessels. Warn master of each vessel to whom you may deliver Proclamation that name of vessel has been taken, and that vessel will be liable to capture if found to have been or to be sealing in Behring's Sea east of the line of demarcation; after notice, furnish all United States' and British vessels of war and revenue-cutters with lists of vessels warned. Remain in neighbourhood of Sand Point until receipt of further instructions, which will be sent by "Marion." Receive on board and transport to Sand Point C. H. Bullard, Deputy Collector of Customs, but do not delay sailing on his account.

Inclosure 4 in No. 76.

Mr. Tracy to Commanding Officer of United States' Steamer "Mohican," San Francisco, California.

(Telegraphic.)

Washington, June 15, 1891.

OBTAIN immediately from Collector of Customs, San Francisco, printed copies of President's Proclamation in reference to Behring's Sea. On receipt of such copies proceed with all dispatch to the vicinity of the Pribyloff Islands, St. Paul and St. George. Notify all American and British persons and vessels you meet of the Proclamation, and give them copies of the same. Warn all persons and vessels of either nationality engaged in sealing in Behring's Sea east of the line of demarcation, as shown on Hydrographic Office Chart No. 68, to leave those waters forthwith. Make entry of warning on register or log of sealer. Seize any American or British persons and vessels found to be or to have been engaged in sealing, after notice, within the prohibited waters, and bring or send them in charge of a sufficient force to insure delivery to nearest convenient port of their own country, together with witnesses and proofs, and there deliver them to proper officer of Court in said port. Send, at least, the master of the seized vessel, her mate or boatswain, all her cargo, and such of her crew as you deem safe, in the seized vessel. At time of seizure, draw up declaration in writing, showing condition of seized vessel, place and date of seizure, giving latitude and longitude, and circumstances showing guilt. Sign declaration, and send with ship's papers and seized vessel to officer of Court. Deliver to master of seized vessel signed and certified list of papers found on board. Officer in charge of seized vessel will, at time of delivering vessel's papers to Court, sign a certificate stating any changes that may have taken place in respect to vessel, crew, or cargo, since seizure.

Keep a list of all vessels to which notice of Proclamation has been given, and furnish all United States' and British war or revenue vessels with copies of list.

Before sailing get order from Alaska Commercial Company, San Francisco, to coal at Unalaska.

After two weeks' cruising in neighbourhood of Pribyloff Islands, rendezvous at Sand Point, Popoff Islands, one of the Shumagin group, with "Thetis" and "Alert," and await there further instructions by "Marion."

Furnish copy of this order to Commanding Officer of "Alert," and direct him to comply with it.

Inclosure 5 in No. 76.

Mr. Tracy to Commander Cotton, commanding United States' Steamer "Mohican," San Francisco, California.

(Telegraphic.)

Washington, June 16, 1891.

UNTIL further instructed, you are placed in command of all United States' vessels of war cruising in the neighbourhood of Behring's Sea, and you will distribute the force in such manner as in your judgment will best enable you to comply with the orders of the Department, and the requirements of the President's Proclamation. Instruct vessels under your command to send all seized persons and vessels to Unalaska, to which point chartered steamer will be sent from San Francisco with marine guard. Steamer will be at your disposal. Instructions have been sent to revenue-cutters to turn over persons and vessels seized by them to you at Unalaska. Utilize the chartered steamer to the best advantage to assist in executing the Proclamation, and to hand over as soon as practicable all seized persons and vessels to authorities of nation to which they respectively belong. Orders directing "Thetis," "Alert," and "Mohican" to rendezvous at Sand Point revoked. "Thetis" will proceed to Sand Point as directed to distribute Proclamation and give notice, and will proceed thence to Unalaska immediately after departure of British steamer, which visits Sand Point about 1st July to bring home coast catch of seal. "Mohican" and "Alert," after cruising two weeks, as previously directed, in Behring's Sea, will rendezvous with "Thetis" at Unalaska instead of Sand Point. "Marion" will sail later, and join your command at Unalaska at about same time. Has "Thetis" already sailed? If so, you must communicate with her at Sand Point, where her orders of yesterday directed her to await your arrival. On receipt of this order, proceed immediately to Behring's Sea with "Thetis," "Mohican," and "Alert." Telegraph departure.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received July 2.)

My Lord,

Washington, June 22, 1891.

I HAVE the honour to inclose, with reference to previous correspondence on the subject of the *modus vivendi* in Behring's Sea, copy of a protest, as published in the "Washington Post" of the 20th instant, which has been filed by the North American Commercial Company with the Treasury Department against the President's Proclamation limiting the catch of the Company for the current year to 7,500 seals, and for which indemnity is claimed. This protest also contains a claim by the Company for an indemnity against the United States on account of losses incurred during last year's fishery season by reason of their operations on the islands having been brought to a close on the 20th July before the expiration of the sealing season, by order of Mr. Goff, the United States' Agent.

I likewise have the honour to inclose a cutting from the "New York Times," commenting on this protest of the Company.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure 1 in No. 77.

Extract from the "Washington Post" of June 20, 1891.

THE North American Commercial Company, through its attorney, Judge N. L. Jeffries, filed the following protest with Acting Secretary Spaulding, of the Treasury Department, yesterday:—

"Sir,

"The North American Commercial Company, of San Francisco, California, the lessee of the right to take fur-seals for their skins on the Islands of St. Paul and St. George in Alaska, for a period of twenty years from the 1st May, 1880, respectfully represents:

"1. That it has at all times since the execution of said lease, in every particular, faithfully performed the stipulations and covenants of the same, and has strictly observed the law in regard thereto, and obeyed the regulations, orders, and directions of the Secretary of the Treasury relating to the same; that it is doing so now, and will continue to do so in the future.

"Said Company further represents that previous to and at the time of the letting of said Contract the Secretary of the Treasury, by public advertisement, assured said Company that it would be permitted to take under said Contract on said islands a quota of 60,000 seal-skins during the year 1890, and said Company, relying upon that assurance, submitted its bid for said privilege and made its estimates upon that basis, and agreed to pay to the United States a sum three times greater than paid by the former lessee for said privilege, which proposal was accepted by the United States, and a lease was thereupon executed and delivered in accordance with said proposal submitted by said Company in response to said advertisement.

"That thereupon said Company, under directions of the Secretary of the Treasury, purchased from the former lessee, the Alaska Commercial Company, its plant, property, and fixtures on said islands, including a large number of dwelling-houses for the native inhabitants, also warehouses, storehouses, salt houses, merchandize, goods, provisions, boats, and implements, and paid therefor a large sum of money. Said Company at the same time purchased a large stock of supplies, provisions, goods, and merchandize for the wants of the inhabitants of the islands, and chartered a steam-ship at great cost for the purpose of transporting said supplies from San Francisco to the seal islands, a distance of over 2,000 miles, and to bring back to San Francisco the 60,000 seal-skins, which, by its said Contract, it had been authorized to take during the season of 1890, and for which it incurred a great expense.

"Said Company further represents that, in violation of the terms and stipulations of said Contract without good cause therefor, and without any assertion or pretence by the United States or its Agents that said Company had been derelict or at fault in any respect, the United States compelled said Company to cease taking seals on the 20th day of July, 1890, when the sealing season had not expired, and when said

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Company had obtained only one-third of the quota of seal-skins which by law and the terms of said Contract it was authorized to take, and then and there prohibited said Company from taking any additional number during said year, on account of which said Company sustained a loss in the sum of 400,000 dollars.

"Said Company further represents that at the time it was compelled to stop taking seals at said islands it earnestly protested against such action by the United States, and has continued to protest, and now again submits its formal protest against the action of the United States in preventing it from taking its quota of seal-skins it had a right to take by law and by the terms of said Contract. And said Company respectfully submits that it is justly entitled to receive from the United States such a sum as will compensate it for the loss it has sustained on account of the action of the United States, as aforesaid.

"2. Said Company further represents that, acting under the authority of law and the provisions of said lease, the Secretary of the Treasury, on the 13th day of April, 1891, determined and fixed the quota of seal-skins which said Company would be permitted to take on said islands, according to the provisions of said Contract, during the present year, at 60,000 skins; and that, relying upon that assurance, said Company again purchased a large stock of supplies to the amount of 65,000 dollars, and chartered a steamer at great expense to transport said supplies to the seal islands for the maintenance of the native inhabitants, and to bring to San Francisco the 60,000 seal-skins which it had been authorized to take during the present season.

"And now, said Company having been notified by the Secretary of the Treasury that it will not be permitted to take its said quota of 60,000 seals during this year as it is authorized to do by its said Contract, and by the express direction of the Secretary aforesaid, and it respectfully enters its protest against such action by the United States, and gives notice to the Honourable the Secretary of the Treasury that it will claim to be reimbursed by the United States to the full amount of the loss it may sustain by reason of its being prohibited by the United States from taking its full quota of 60,000 seal-skins during the year 1891.

"3. Said Company further represents that in providing for the maintenance and education of the inhabitants of the Islands of St. Paul and St. George aforesaid, it has expended a large amount of money, to wit, the sum of 150,000 dollars, for which it has not been reimbursed in any part, and said Company has been assured by the Secretary of the Treasury that the United States will liquidate the account so expended by said Company, including as well the price of supplies and cost of schools, medicines, and medical attendance during the years 1890 and 1891. Said Company will be obliged to hereafter demand of the United States the full amount so expended.

"Said Company respectfully invites the attention of the Secretary of the Treasury to the fact that the Islands of St. Paul and St. George in Alaska belong to and are in the undisputed possession of the United States; that the right of this Government to dispose of fur-seals born on said islands has never been questioned. This being so, said Company assumes that the right of the United States or its lessee to take fur-seals on said islands within our unquestioned jurisdiction is beyond dispute, and not subject to question or interference by England or any other foreign State.

"The right of this Government to take fur-seals on its own territory is not one of the questions to be submitted to arbitration, and has no relation to the contention between the two countries. In that dispute Great Britain affirms and the United States denies the right of English and Canadian poachers to slaughter fur-seals in 'our part' of Behring's Sea, and this Company respectfully insists that the Agreement between the two Governments set forth in the President's Proclamation, in so far as it prohibits said Company from taking its lawful quota of seal-skins, is in contravention of the vested rights of this Company, and subjects it to great loss.

"If it may be assumed, as England has asserted, and this Government has denied, that the eastern portion of Behring's Sea is not the marine territory of the United States, but is the 'high seas,' the Company respectfully submits that it is not competent for Great Britain and the United States alone or for any other two Governments to determine who shall be permitted to navigate these waters, or to prohibit fishing or taking seals on the high seas; and the Company respectfully points out to the Honourable the Secretary of the Treasury that its rights have been overlooked by said Agreement between the two Governments, in that it deprives the lessee from taking seals which it is authorized to take by law and its Contract with the United States, thereby inflicting a severe loss upon said Company, in order to obtain the consent of England to arbitrate the question as to the right of Canadian poachers to destroy the seal industry by pelagic sealing."

Inclosure 2 in No. 77.

Extract from the "New York Times" of June 20, 1891.

THE COMMERCIAL COMPANY PROTESTS.—The North American Commercial Company has entered its protest against the assent of the United States' Government to the closed season for sealing in Behring's Sea, and has given notice that it claims to be indemnified by the Government for its losses not only for this year, but last year, in having the number of seals that it was permitted to take under its Contract cut down. It is evident that the Company which took the lease of the sealing privileges of the Islands of St. George and St. Paul for a term of twenty years from the 1st May, 1880, has a rather hard bargain. It is bound to incur a considerable expense in maintaining the natives, without reference to the number of skins taken; and it invested quite a large amount in the "plant" and property purchased from its predecessor. The preparation of each season's work is, of course, an expensive matter.

The terms of the lease give the Secretary of the Treasury discretion in determining the number of seals that may be taken each season. Last year the number was fixed at 60,000, but, on the 20th July, the operations of the Company were stopped by the Agents of the Government, when only a little more than one-third of the allotted number had been taken. This year the Secretary of the Treasury again, on the 13th April, issued an order permitting the capture of 60,000 seals, and preparations were made by the Company accordingly. But under the closed-season Agreement the number has been cut down to 7,500, sufficient merely to cover the cost of maintaining the natives. Now the Company claims that the Government had no right to reduce the number after it had been once fixed for the year under the contract of lease, and it will claim to be indemnified for its losses. It says that the loss last year was 400,000 dollars, and, of course, it will be much larger this year. Besides this, the Company asserts that it has expended 150,000 dollars in the maintenance and education of the natives, which should be reimbursed. It seems likely, therefore, to have a nice little claim upon the Government for 1,000,000 dollars or more.

The Company, through its counsel, has some remarks to make about the international and jurisdictional aspects of the case, which are sheer impertinence. As to its legal claims, not being familiar with the exact terms of the Contract, we shall not undertake to pass an opinion. Apparently, the Secretary of the Treasury assumes that his discretion to fix the number of seals to be taken from year to year, and to supervise and regulate the killing, includes the right to reduce the number at any time during the season, while the Company denies this. But one thing is very clear. If it was found necessary last year to stop the Company's operations in July, when only 21,000 seals had been taken, it was very poor policy this year to fix the limit again, before the season opened, at 60,000, and that, too, after the proposal for a closed season had been made and negotiations were on foot for giving it effect. Does it not look as though the Government itself had prepared the way for this claim for a large indemnity in case an Agreement for a closed season should be made? Is not this protest another step in the process of laying the basis for a claim upon the Government equivalent to the profits of a full sealing season of which the order permitting a catch of 60,000 seals was the first step? If so, it may be that Mr. Blaine, by his delays and his influence, succeeded in doing his friends of the North American Commercial Company a very substantial service after all.

No. 78.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received July 2.)

(Extract.)

Washington, June 28, 1891.

WITH reference to your Lordship's telegram of yesterday's date, containing the instructions issued to the British cruisers in Behring's Sea, I have the honour to inclose copy of a Memorandum which I this day personally delivered to the Acting Secretary of State.

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Inclosure in No. 78.

Memorandum.

THE following instructions have been issued to the British Senior Naval Officer at Esquimaux:—

He is to proceed to Behring's Sea with Her Majesty's steam-ships "Nymph" and "Pheasant," and cruise to the eastward of the line of demarcation mentioned in Articles 1 and 2 of the *modus vivendi*, warning all British vessels found acting in ignorance of the prohibition.

He is to confiscate the sealing equipment of any British vessel found deliberately offending, recording her name and the name of her master, for prosecution afterwards.

He is to arrest any American vessel found deliberately offending, and record her name and the name of her captain, together with the proof of the offence for which she is arrested, informing the United States' cruisers.

Her Majesty's ship "Porpoise" will be ordered from China to join the other ships under his command.

Her Majesty's Government are of opinion that there should be an understanding between the two Governments for mutual indemnities.

A cruiser of one nation arresting a vessel of the other can only be justified in doing so as the agent of such other nation, and should therefore act in that character.

Her Majesty's Government therefore suggest that the two Governments should agree to indemnify each other in respect of any acts committed in pursuance of such agency by the cruisers of one nation against the vessels of the other in execution of the *modus vivendi*.

No. 79.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received July 4.)

(Telegraphic.)

Washington, July 4, 1891.

I HAVE the honour to inform your Lordship that Mr. Wharton, the Acting Secretary of State, has addressed to me a note stating that the President is about to designate two persons to visit the Behring's Sea for the purpose of examining all questions connected with seal life in that sea and the adjacent waters. Mr. Wharton, therefore, proposes that arrangements should be made to have the Agents of the respective Governments go together, so that they may make their observations conjointly. He awaits such communications as Her Majesty's Government may desire to make on the subject.

Mr. Wharton informs me by word of mouth that the Agents whom the President is about to appoint will be nominated as members of the Joint Commission, and as he presumes that the same course will be followed by Her Majesty's Government with regard to Sir G. Baden-Powell and Mr. Dawson, the object of the proposal is that all the members of the Joint Commission should have the advantage of making the necessary investigations and inquiries in the course of the present seal fishery season.

I await instructions from your Lordship as to the reply I should address to the United States' Government.

No. 80.

The Marquis of Salisbury to Sir J. Pauncefote.

(Telegraphic.)

Foreign Office, July 5, 1891.

I HAVE received your telegram of yesterday, forwarding the proposal of the United States' Government that the inquiries respecting seal life in Behring's Sea should be conducted conjointly by the British and United States' Commissioners.

Her Majesty's Government have already chartered a ship to convey the British Commissioners, and they could not now cancel the engagement. Instructions will, however, be sent to the British Commissioners to co-operate as much as possible on their arrival at the seal islands with the American Commissioners in their inquiries into the matters to be investigated.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received July 6.)

My Lord,

Washington, June 20, 1891.

IN my telegram of the 15th instant I had the honour to report the signature of the Agreement between Her Majesty's Government and that of the United States for a *modus vivendi* during the present fur-seal fishery season in Behring's Sea, and I added that I was awaiting an appointment to proceed with the discussion of the terms of arbitration.

Immediately after the signature of the *modus vivendi*, I had requested the Acting Secretary of State (the Honourable William Wharton) to appoint an early day for resuming the above negotiations, and he promised to use all expedition for that purpose.

The next day (the 16th) Mr. Wharton invited me to call at the State Department, and to my surprise informed me that the President was compelled to devote the next few days to other urgent matters of State, and had made arrangements to leave Washington immediately afterwards for his sea-side residence at Cape May, but that he would return on the 23rd, and would be prepared to proceed with the remaining subjects of negotiation.

I expressed my concern at this unexpected delay, which I feared might prevent the appointment of the Commission in time to commence its labours during the present fishery season. I reminded Mr. Wharton of his assurances that the President was anxious to expedite the conclusion of the Arbitration Convention in order that the Joint Commission should not lose this season, and I strongly urged that he should obtain authority to proceed with the negotiations during the absence of the President, whereby a whole week might be saved at a time when every day gained would be of importance.

Mr. Wharton promised to report my observations to the President, and I called again at the Department of State on the 18th in the hope of obtaining a favourable reply to my proposal, but I was informed that my representations had been of no avail, and that the President would not consent to the negotiations being resumed until his return from Cape May.

The President returned to Washington on the 23rd, and on the following day I called on Mr. Wharton to urge the immediate resumption of the negotiations. He promised to see the President at once on the subject, and yesterday evening I received from him the official note of which I at once telegraphed the substance to your Lordship, and of which a copy is inclosed in my separate despatch No. 141 of this date.

In that note Mr. Wharton submits, on behalf of the President, the text of two new clauses in the proposed Arbitration Convention with reference to the questions of an international close season, and of the claims for compensation, and also proposes a form of a separate and contemporaneous agreement for a Joint Commission.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 82.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received July 6.)

My Lord,

Washington, June 26, 1891.

WITH reference to my telegram of yesterday's date, I have the honour to inclose herewith a copy of a note which I received yesterday evening from the Acting Secretary of State, in answer to the Memorandum (see my despatch of the 5th June) which I communicated to him on the 3rd instant in conformity with the instructions contained in your Lordship's telegram of the 2nd instant, on the subject of the Behring's Sea Arbitration.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure in No. 82.

Mr. Wharton to Sir J. Panncofote.

Sir,

Washington, June 25, 1891.

THE correspondence between this Government and that of Her Majesty has happily resulted in an Agreement upon the first five propositions which are to constitute the basis of a proposed Arbitration relating to the controversy which has arisen as to the respective rights of the two Governments in Behring's Sea.

In the note of Lord Salisbury of the 21st February last he states his objection to the sixth proposition, as presented in the letter of Mr. Blaine of the 17th December, 1890, in the following words:—

"The sixth question, which deals with the issues that will arise in case the controversy should be decided in favour of Great Britain, would perhaps more fitly form the substance of a separate reference. Her Majesty's Government have no objection to referring the general question of a closed time to arbitration, or to ascertain by that means how far the enactment of such a provision is necessary for the preservation of the seal species, but such reference ought not to contain words appearing to attribute special and abnormal right in the matter to the United States."

I am now directed by the President to submit the following, which he thinks avoids the objection urged by Lord Salisbury:—

"No. 6. If the determination of the foregoing questions as to the exclusive jurisdiction of the United States shall leave the subject in such position that the concurrence of Great Britain is necessary to the establishment of Regulations for the proper protection and preservation of the fur-seal in, or habitually resorting to, the Behring's Sea, the Arbitrators shall then determine what concurrent Regulations outside the jurisdictional limits of the respective Governments are necessary, and over what waters such Regulations should extend, and to aid them in that determination the Report of a Joint Commission to be appointed by the respective Governments shall be laid before them, with such other evidence as either Government may submit.

"The Contracting Powers furthermore agree to co-operate in securing the adhesion of other Powers to such Regulations."

In your note of the 3rd instant you proposed, on behalf of Her Majesty's Government, the following Additional Article:—

"It shall be competent to the Arbitrators to award such compensation as, in their judgment shall seem equitable, to the subjects and citizens of either Power who shall be shown to have been damaged in pursuit of the industry of sealing by the action of the other Power."

The President cannot give his assent to this form of submitting the question of compensation. It entirely omits notice of the important fact, that the Government of the United States, as the owner of the seal fisheries on the Pribyloff Islands, has interests which have been injuriously affected by the pelagic sealing of which complaint has been made in this correspondence.

This Government has derived a very large annual income from this property, and this income has, in the opinion of the President, been very seriously impaired and imperilled by the destruction of the seal in the sea while passing to and from the breeding grounds on these islands. The Government of Her Majesty has directly interposed to support the Canadian sealers, and will not, the President assumes, desire to avoid responsibility for any damages which have resulted to the United States or to its citizens if it shall be found by the Arbitrators that the pursuit of seals by these Canadian vessels in the sea was an infraction of the rights and an injury to the property of this Government. The proposal submitted by you distinctly limits the liability of Her Majesty's Government in case of a decision in favour of the United States to compensation to the citizens of this country.

It will be apparent to Lord Salisbury that whatever damages have resulted from pelagic sealing as pursued by vessels flying the British flag have accrued to the United States or to its lessees. The President does not doubt that the purpose of Her Majesty's Government in the proposal under discussion was to secure to the party injured equitable compensation for injuries resulting from what may be found by the Arbitrators to have been the unlawful and injurious act of either Government.

From the note of Lord Salisbury of the 21st February, to which reference has been made, I quote the following:—

"There is one omission in these questions which I have no doubt the Government of the President will be very glad to repair, and that is the reference to the Arbitrator

of the question what damages are due to the persons who have been injured in case it shall be determined by him that the action of the United States in seizing British vessels has been without warrant in international law."

I am directed by the President to propose the following 7th and final clause in the basis of arbitration:—

"7. It shall be competent to the Arbitrators to award such compensation as in their judgment shall seem equitable to the subjects or citizens of Great Britain whose vessels may have been seized by the United States in the Behring's Sea, if such seizures shall be found by the Arbitrators to have been unwarranted, and it shall also be competent to the Arbitrators to award to the United States such compensation as in their judgment shall seem equitable for any injuries resulting to the United States or to the lessees from the Government of the privilege of taking seals on the Pribyloff Islands, by reason of killing seals in the Behring's Sea by persons acting under the protection of the British flag outside of the ordinary territorial limits and since the 1st day of January, 1886, if such killing shall be found to have been an infraction of the rights of the United States."

It being understood that an arrangement for a Joint Commission is to be made contemporaneously with the conclusion of the terms of arbitration, I am directed by the President to propose the following separate agreement:—

"Each Government shall appoint two Commissioners to investigate conjointly with the Commissioners of the other Government all the facts having relation to seal life in Behring's Sea, and the measures necessary for its proper protection and preservation.

"The four Commissioners shall, so far as they may be able to agree, make a joint Report to each of the two Governments, and they shall also report, either jointly or severally, to each Government on any points upon which they may be unable to agree.

"The Reports shall not be made public until they shall be submitted to the Arbitrators, or it shall appear that the contingency of their being used by the Arbitrators cannot arise."

I have, &c.

(Signed) WILLIAM F. WHARTON.

No. 83.

Sir G. Baden-Powell to the Marquis of Salisbury.—(Received July 6.)

(Telegraphic.)

July 6, 1891.

IN my opinion it is essential that in order to avoid delay I should take with me to the North Pacific Ocean a permission from the Russian Government to visit their islands should it seem necessary to do so.

I should be glad if it could be sent to me, if possible, by post on the 7th instant

No. 84.

The Marquis of Salisbury to Sir J. Pauncefote.

(Telegraphic.)

Foreign Office, July 6, 1891.

HER Majesty's Government approve the wording of the 7th Article respecting compensation in the proposed Arbitration Agreement suggested in your telegram of the 27th ultimo. They have been awaiting the assent of the Canadian Government, which has now been given.

Her Majesty's Government accept the 6th Article as proposed by the United States Government, and communicated in your telegram of the 25th ultimo.

No. 85.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received July 6.)

(Telegraphic.)

Washington, July 6, 1891.

WITH reference to telegram from the Foreign Office of the 6th instant, are the terms of agreement as to the Joint Commission referred to in my telegram of the 25th ultimo accepted by Her Majesty's Government?

No. 86.

The Marquis of Salisbury to Sir G. Baden-Powell and Dr. Dawson.

Gentlemen,

Foreign Office, July 7, 1891.

I TRANSMIT herewith, for your information, paraphrases of telegrams which have passed between Her Majesty's Minister at Washington and this Department,* relative to a proposal made by the Government of the United States that the Commissioners appointed by Her Majesty's Government and by that of the United States to visit Behring's Sea for the purpose of examining into the conditions of seal life should do so together, so as to make their observations conjointly.

You will already have been informed of the contents of these telegrams by the Governor-General of Canada, to whom they have been repeated by telegraph. In accordance with the assurance given to the United States' Government, I have to request that on your arrival at the seal islands you will as much as possible co-operate with the Commissioners appointed by the Government of the United States to inquire into this subject.

I am, &c.
(Signed) SALISBURY.

No. 87.

Colonial Office to Foreign Office.—(Received July 8.)

Sir,

Downing Street, July 7, 1891.

I AM directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, the inclosed "Supplement No. 1 to the Annual Report of the Department of Fisheries," which has been received from the Governor-General of Canada.

I am to request that you will call his Lordship's attention to the passages relating to the seal fisheries contained at pp. 182-4 of this volume.

I am, &c.
(Signed) JOHN BRAMSTON.

Inclosure in No. 87.

*Extract from Supplement No. 1 to the Annual Report of the Department of Fisheries.***FISHERIES STATEMENTS AND INSPECTORS' REPORTS FOR THE YEAR 1890.**

[Printed by order of the Canadian Parliament.]

Marine Furs.

The value of the marine fur products is 510,111 dollars, being an increase of 157,661 dollars over the past year, due to the following causes:—An advance of 1 dollar per skin in the price of fur seals, an increase of 11,181 skins in the catch, and an increase of 3,200 in the catch of hair-seals.

I append a schedule, showing the detailed catch of the sealing fleet for the season of 1890:—

* Nos. 79 and 80.

RETURN showing the Number of Vessels, Boats, Canoes, and Men engaged in the Marine Fur Fishery, with Products and Values, for the season of 1890.

Name of Vessel.	Name of Owner.	Tonnage.	Value of Vessel.	Number of Boats.	Value of Boats.	Number of Canoes.	Value of Canoes.	Number of Men.	Number of Spring Catch.	Number of Sand Point Catch.	Number of Behring Sea Catch.	Total Number.	Total Value.
C. H. Tupper	Walker and Co.	99	12,000	7	700	..	Dollars.	23	..	571	796	1,367	Dollars.
Viva	Came and Munsie	92	12,000	6	600	..	..	23	262	436	2,015	2,713	15,037
Lily	W. Boons	69	8,500	1	100	8	400	25	122	..	500	622	29,843
Alvid	S. W. Buknam	90	9,000	1	100	11	500	28	220	340	1,137	1,706	6,842
Sea Lion	S. Collins	50	7,000	5	500	..	..	18	254	817	774	1,845	18,765
Mary Taylor	Came and Munsie	42	8,000	1	100	10	500	23	104	302	592	1,423	20,295
Anne C. Moore	Hackett and Co.	113	13,600	7	700	..	..	22	80	703	650	1,423	10,978
Walter L. Rich	Cameron and Munro	79	7,000	6	600	..	..	20	122	502	633	1,437	15,658
E. B. Marvin	Marvin and Co.	117	12,000	7	700	..	..	26	368	878	918	1,317	14,487
Kato	Charles Spring	58	4,000	5	500	11	500	27	156	511	230	2,164	23,894
Pioneer	Came and Munsie	66	10,000	5	500	..	..	20	235	716	984	897	9,867
Favorite	Charles Spring	64	8,000	..	..	13	500	32	356	946	1,116	1,935	21,285
Ocean Bell	R. Hall and Co.	83	10,000	7	700	..	..	23	..	946	480	2,433	26,983
Theresa	Belington and Co.	63	10,000	7	700	..	..	23	175	569	450	1,426	15,686
Sapphire	Marvin and Co.	124	14,000	7	100	18	900	42	119	745	1,378	1,194	13,134
Triumph	Ditto	98	14,000	7	700	..	..	23	182	1,018	473	2,242	24,662
Maggie Mac	Dodd and Co.	70	10,000	6	725	..	..	20	..	1,200	752	1,673	18,403
Juanita	Kinsman	49	6,000	1	100	..	..	22	97	311	770	1,178	12,938
W. P. Sayward	Lang and Moss	59	8,000	1	100	9	450	22	154	339	459	952	10,472
Catherine	J. L. Penny	81	5,500	1	100	8	400	22	380	345	854	1,670	18,370
Beatrice	W. Grant	66	7,000	..	..	10	500	23	320	945	1,780	1,780	19,694
Mary Ellen	M. Moss	73	7,250	7	700	12	600	29	220	710	854	1,066	11,736
Penelope	Ditto	69	10,000	5	500	..	..	23	115	951	..	1,171	12,881
Aurora	V. Jacobsen	46	8,000	1	100	8	400	21	300	764	1,467	2,531	27,841
Wanderer	T. Harold	41	8,000	1	100	..	..	19	165	737	..	962	10,582
Venture	H. Paxton and Co.	32	5,000	1	100	8	500	19	83	..	..	82	902
Mountain Chief	D. Urquhardt	48	3,000	4	400	..	..	15	94	..	..	94	1,094
Lotina	Nassau	23	1,000	..	..	5	200	12	60	..	..	60	660
From River Inlet to Skeena River	P. Quachyne	28	1,000	..	..	4	160	10	70	..	..	70	770
Estimate of furs purchased from Indians	..	..	..	..	..	..	..	..	..	..	..	200	2,244
and others	..	..	..	..	..	..	..	..	..	..	..	5,000	55,000
Estimate of hair-seals	..	..	..	..	..	..	..	..	..	..	..	10,200	7,650
Estimate of hair-seals	..	..	..	..	..	..	..	..	..	..	..	102	10,200
Total	..	2,012	218,200	107	10,825	145	6,819	678	4,650	16,732	18,165	54,853	\$10,111

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RETURN showing Fur-Seals caught by Foreign Vessels and disposed of in Victoria,
British Columbia.

Name of Vessel.	Name of Owner.	Number of Sand Point Catch.	Number of Behring Sea Catch.	Total Number.
Mattie T. Dyre	American	74	..	74
San Diego	Ditto	..	579	579
Geo. R. White	Ditto	..	400	400
Harry Davis	Ditto	..	1,500	1,500
Venture	Ditto	..	564	564
Adèle	German	220	431	651
Total	..	294	3,464	3,758

It will be noticed that the names of vessels and owners are given, together with the tonnage, as in previous reports, while the number of boats and canoes is kept separate and the total values given. The value of vessels comprises the fit-out with firearms, ammunition, &c., when prepared for a hunting voyage.

The catch of seals has been divided into three classes, viz.:—Spring catch, Sand Point catch, and Behring's Sea catch. The Spring catch comprises the seals captured after the vessels have left Victoria, say the 1st February, hunting as far south as Lower California; Sand Point catch includes the skins taken off the west coast of Vancouver Island; and the Behring's Sea catch those killed in Behring's Sea proper. It will be noticed that the two first-named kinds exceed the Behring's Sea catch by 3,217 skins, and, as is usually the case, I learn from dealers that the percentage of grey pups is larger in the Sand Point catch than in that of the Behring's Sea.

On comparing the schedule with that of 1889, it will be seen that the sealing fleet was increased by six vessels; and, from present outlook, there will likely be a much larger increase during the coming season. I understand that there have already been purchased three American, a Japanese, and five Nova Scotia schooners for this trade. The names of the Nova Scotia vessels now on their way are—"Union," "Geneva," "Maud S.," "Otto," and "Annie M. Paint," besides a steamer recently fitted up for the same purpose.

I was informed that the seals in Behring's Sea changed their feeding-grounds last season from the south-west to the north-east of St. George and St. Paul's Islands, the large catches being made at the north-east end. The cause of this change is said to be on account of submarine volcanic eruptions, which drove away the feed from the banks. I understand that Customs Collector Milne, of Victoria, has given a detailed Report on this fishery, and there is no need of my dwelling further on it. As I am situated here, and so seldom able to visit Victoria, I find it extremely difficult to get reliable information.

No. 88.

The Marquis of Salisbury to Sir R. Morier.

(Telegraphic.)

Foreign Office, July 8, 1891.

IT is thought by the two Commissioners whom Her Majesty's Government are sending to investigate the conditions of seal life in the North Pacific Ocean and in Behring's Sea that, in order to complete their inquiry, it may be necessary for them to visit the seal islands belonging to Russia. One of the principal reasons for their doing so is that they will have to ascertain how far the alleged diminution in the number of seals is merely due to their emigration to other rookeries.

I have to request you to apply for the necessary permission to the Russian Government, and it is desirable, if possible, that before they leave Vancouver the Commissioners may be able to receive the permission by telegraph. Their names are Sir George Baden-Powell and Professor Dawson. A steamer has been specially chartered for them in which they will visit the islands.

No. 89.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received July 9.)

My Lord,

Washington, June 27, 1891.

WITH reference to my despatch of the 23rd instant, I have the honour to report that I have received a communication from the State Department, dated yesterday, informing me that the Memorandum, copy of which was inclosed in my despatch above-mentioned, relative to the instructions given to Her Majesty's vessels in Behring's Sea, was immediately communicated to the United States' Navy Department for their information.

I have, &c.
(Signed)

JULIAN PAUNCEFOTE.

No. 90.

The Marquis of Salisbury to Sir J. Pouncefote.

(Telegraphic.)

Foreign Office, July 9, 1891.

IN reply to the inquiry contained in your telegram No. 97, of the 6th instant, I have to inform you that the terms of Agreement as to a Joint Commission, contained in your telegram of the 25th ultimo, are accepted by Her Majesty's Government.

No. 91.

The Marquis of Salisbury to Sir R. Morier.

Sir,

Foreign Office, July 9, 1891.

I TRANSMIT herewith, for your Excellency's information, copies of a despatch from Her Majesty's Minister at Washington,* inclosing the Agreement signed at Washington on the 15th ultimo between Her Majesty's Government and that of the United States for establishing a *modus vivendi* in relation to the fur-seal fisheries in Behring's Sea.

I am, &c.
(Signed) SALISBURY.

No. 92.

Colonial Office to Foreign Office.—(Received July 10.)

Sir,

Downing Street, July 9, 1891.

I AM directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a paraphrase of a telegram from the Governor-General of Canada respecting the suggestion that the members of the Joint Commission should proceed to the islands together.

I am, &c.
(Signed) ROBERT G. W. HERBERT.

Inclosure in No. 92.

Lord Stanley of Preston to Lord Knutsford.

(Telegraphic.)

(Received July 8, 1891, 4.20 P.M.)

THE following message was sent to-day to Sir J. Pouncefote:—
"The Prime Minister of Canada suggests that the United States' Government should be informed that the British Commissioners are ready to start, and hope to leave Ottawa on the 10th instant.

"Will United States' Commissioners accompany them?"

Colonial Office to Foreign Office.—(Received July 10.)

Sir,

Downing Street, July 9, 1891.

WITH reference to the letter from this Department of the 9th instant, I am directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, a copy of a telegram which he has sent to the Governor-General of Canada respecting the suggestion that the British and United States' members of the Joint Commission of Experts should proceed to Behring's Sea together.

I am, &c.

(Signed) EDWARD WINGFIELD.

Inclosure in No. 93.

Lord Knutsford to Lord Stanley of Preston.

(Telegraphic.)

Downing Street, July 9, 1891.

WE have no objection to Commissioners of United States' Government accompanying British Commissioners, who should proceed in vessel chartered for them without avoidable delay.

No. 94.

The Marquis of Salisbury to Sir J. Pouncefote.

(Telegraphic.)

Foreign Office, July 10, 1891.

THE Secretary of State for the Colonies communicated to me the telegram sent to you by the Governor-General of Canada on the 8th instant, suggesting that the United States' Commissioners should accompany the British Commissioners to Behring's Sea.

Her Majesty's Government have no objection to the proposal, but the British Commissioners must go in the ship which has been chartered for them, and should not postpone their departure.

No. 95.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received July 10.)

(Telegraphic.)

Washington, July 10, 1891.

WITH reference to your Lordship's telegram of the 6th instant on the subject of Behring's Sea arbitration, I have sounded the United States' Government unofficially on the subject of the new clause No. 7 respecting damages, which I submitted to your Lordship in my telegram of the 27th ultimo.

Before arriving at any decision on this subject, the President wishes to be officially informed of the precise grounds on which Her Majesty's Government object to clause 7 as proposed by him. With your Lordship's approval, I propose to inform him that Her Majesty's Government are of opinion that in a case like the present, it is unusual and inexpedient to make use of terms providing that compensation shall be awarded on an hypothetical state of facts, and thus prejudging the question of liability; that, further, they consider that the question whether any legal liability arises out of any particular state of facts is a matter which should be adjudged upon by the Arbitrators after discussion before them. Her Majesty's Government would therefore propose that, in order to place both Governments in this respect on the same footing, a new clause in the form submitted in my telegram of the 27th June should be substituted for clause 7 as proposed by the President.

I have the honour to request that I may be informed as soon as possible as to whether the above reply receives your Lordship's approval.

Colonial Office to Foreign Office.—(Received July 11.)

Sir,

Downing Street, July 10, 1891.

I AM directed by Lord Knutsford to acknowledge the receipt of your letter of the 8th instant, inclosing a paraphrase of a telegram of the 6th instant from Her Majesty's Ambassador at St. Petersburg relating to the Behring's Sea question.

In reply, I am to state, for the information of the Marquis of Salisbury, that Lord Knutsford is of opinion that, in considering whether the Russian proposals should be accepted, it should be borne in mind that, unless the United States agree to them also, United States' sealers would be free to catch seals to the west of the line of demarcation in the Treaty of 1867, so that the assent of Her Majesty's Government would appear to be necessarily conditional upon the agreement of the United States.

I am, &c.

(Signed) EDWARD WINGFIELD.

Sir R. Morier to the Marquis of Salisbury.—(Received July 13.)

(Extract.)

St. Petersburg, July 7, 1891.

I HAVE the honour to transmit to your Lordship herewith the inclosed copy of a note, dated the 14th (26th) June, in which M. de Giers replies to my two notes of the 23rd May (4th June) and 29th May (10th June), transmitted in my of the 10th ultimo.

Owing to some accident in transmission, which is not yet explained, this note only reached my hands yesterday. In it M. de Giers points out, in reference to my second note, that it would be difficult to accede to propositions the official text of which is not known to him otherwise than through the public newspapers, and which have been brought to his notice by one only of the two Contracting Parties. Nevertheless, the Imperial Government would probably see nothing in the way of prohibiting Russian subjects from hunting seals to the east of the maritime line of 1867 if Her Majesty's Government, in a spirit of just reciprocity, would equally prohibit British subjects from fishing to the west of that line. The cruisers of both countries could, in that case, be authorized to stop on the high seas English and Russian subjects alike found contravening this arrangement in the waters of the Behring's Sea and the Okhotsk.

The note closes by the significant hint that, under any circumstances, the Governor-General of the Amoor had been instructed to take all necessary measures for protecting the Russian hunting-grounds against any dangers that might threaten them on the part of foreign hunters.

When I saw M. de Giers on Saturday he did not advert to the question, being probably under the impression, as he must have supposed that I had received his note, that I would be the first to introduce it. I have therefore not had the opportunity of obtaining from his Excellency any elucidation of the note.

Inclosure in No. 97.

M. de Giers to Sir R. Morier.

M. l'Ambassadeur,

Saint-Petersbourg, le 14 (26) Juin, 1891

J'AI eu l'honneur de recevoir les deux notes de votre Excellence en date du 23 Mai (4 Juin) et du 29 Mai (10 Juin) relativement à la chasse des otaries.

Par la première de ces notes vous voulez bien m'informer que le Gouvernement de Sa Majesté Britannique est tombé d'accord avec le Gouvernement des États-Unis de l'Amérique du Nord quant à la prohibition de la chasse des otaries jusqu'au mois de Mai de l'année prochaine et invite le Cabinet Impérial à s'associer à cette mesure. Lord Salisbury a bien voulu ajouter que sans l'assentiment de la Russie il ne saurait être question de la mise en pratique de cet arrangement. Dans la seconde des deux notes susmentionnées votre Excellence modifie la proposition de son Gouvernement dans ce sens que la prohibition de la chasse des otaries ne s'étendrait plus qu'à l'est de la ligne maritime du Traité de 1867 conclu entre la Russie et les États-Unis. Le Gouvernement de Sa Majesté Britannique nous demanderait en conséquence d'interdire de notre côté la

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chasse prohibée à l'est de cette ligne à des sujets Russes et d'autoriser les croiseurs Anglais à saisir les bâtiments qui se livreraient à cette industrie sous notre pavillon.

Tout en remerciant votre Excellence de ces communications je crois devoir observer qu'il nous serait difficile d'accéder à des propositions dont le texte officiel ne nous est connu que par les journaux et qui d'ailleurs ne nous sont faites que par l'une des deux Parties Contractantes. Quant à la ligne maritime du Traité de 1867, le Gouvernement Impérial ne verrait probablement pas d'empêchement à interdire aux sujets Russes la chasse des otaries à l'est de cette région si le Gouvernement de Sa Majesté Britannique, dans un esprit de juste réciprocité, interdisait également à ses sujets la chasse susmentionnée à l'ouest de la même ligne. Les croiseurs des deux pays pourraient, en ce cas, être autorisés à arrêter les contrevenants en pleine mer, Anglais ou Russes, sans distinction, dans les eaux de Behring et d'Okhotsk, et de les livrer aux autorités nationales compétentes.

En portant ce qui précède à la connaissance de votre Excellence je m'empresse d'ajouter que le Gouverneur-Général de la Province de l'Amour recevra dans tous les cas l'ordre de prendre les mesures nécessaires pour la protection des chasses Russes d'otaries contre les dangers qui pourraient les menacer de la part des chasseurs étrangers.

Veuillez, &c.

(Signé) GIERS.

(Translation.)

M. l'Ambassadeur,

St. Petersburg, June 14 (26), 1891.

I HAVE had the honour to receive your Excellency's two notes, dated the 23rd May (4th June) and the 29th May (10th June), relating to the hunting of seals.

In the first of these notes you are good enough to acquaint me that the Government of Her Britannic Majesty have come to an Agreement with the Government of the United States of North America with regard to the prohibition of seal-hunting until the month of May of next year, and that they invite the Imperial Cabinet to join in that measure. Lord Salisbury was good enough to add that without the assent of Russia there could be no question of putting this arrangement into practice. In the second of the two notes above mentioned, your Excellency modifies the proposal of your Government in the sense that the prohibition of seal-hunting would only hold good to the east of the maritime line of the Treaty of 1867 concluded between Russia and the United States. The Government of Her Britannic Majesty consequently asks us to prohibit Russian subjects on our side from the seal-hunting which is forbidden to the east of that line, and to authorize English cruisers to seize such vessels as may pursue that industry under our flag.

While thanking your Excellency for these communications, I think it right to remark that it would be difficult for us to agree to proposals of which the official text is only known to us through the newspapers, and which, moreover, have only been made to us by one of the two Contracting Parties. With regard to the maritime line of the Treaty of 1867, the Imperial Government would probably see no difficulty in prohibiting Russian subjects from hunting seals to the east of that region if the Government of Her Britannic Majesty would, in a spirit of just reciprocity, equally prohibit their subjects from hunting to the west of the same line. The cruisers of the two countries could in that case be authorized to arrest the offenders in the open sea, English or Russian, without distinction, in the waters of Behring's Sea and the Sea of Okhotsk, and to hand them over to the competent national authorities.

In making the above communication to your Excellency, I hasten to add that the Governor-General of the Province of the Amoor will in any case receive orders to take the necessary measures for the protection of the Russian seal-hunting grounds against the dangers by which they may be threatened on the part of foreign hunters.

I have, &c.

(Signed) GIERS.

No. 98.

Sir R. Morier to the Marquis of Salisbury.—(Received July 13.)

My Lord,

St. Petersburg, July 9, 1891.

I RECEIVED your Lordship's telegram of the 8th instant early this morning, and at once addressed a note, of which I have the honour to transmit a copy herewith, to M. de Giers.

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I 2

Not being able to spare the time, owing to the dispatch of my messenger, I requested Mr. Howard to take it himself to M. Chichkine and to urge on his Excellency that the matter might be at once taken in hand, so that a telegram of consent might be dispatched to Vancouver's Island before the departure of the Commissioners. M. Chichkine, who has a strong opinion on the subject of the extinction of the fur-seal species, expressed his full concurrence with the mission of Her Majesty's Commissioners, and said he would do all he could to obtain the necessary permission at once. There always remained, however, the difficulty of the three Ministers to be brought into connected action.

I have, &c.
(Signed) R. B. D. MORIER.

Inclosure in No. 98.

Sir R. Morier to M. de Giers.

M. le Ministre,

St. Petersburg, June 27 (July 9), 1891.

IN the Agreement between Her Majesty's Government and that of the United States, signed on the 15th June last, in connection with the question of seal-hunting in the Behring's Sea, it was stipulated that suitable persons designated by Great Britain should be permitted upon application to visit or remain upon the American seal islands during the present sealing season for the purpose of making such inquiries as might assist Her Majesty's Government in presenting their case to the Arbitrators, should an agreement for arbitration be arrived at, and with the ultimate view of arriving at such data with regard to seal life as might facilitate a general agreement for the preservation of the species.

I have now been instructed by Her Majesty's Government to inform your Excellency that Sir George Baden-Powell and Professor Dawson, men pre-eminently fitted for the purpose, have been selected by Her Majesty's Government to go out to the Behring's Sea and North Pacific for the purpose of investigating the conditions of seal life in those seas; and they are very desirous that, in addition to the American islands, these gentlemen should be permitted to complete their inquiry by a visit to the Russian seal islands, an important reason for this being that it will be necessary to ascertain how far the alleged diminution of seals is due merely to migration to other rookeries.

Her Majesty's Government, in instructing me to make this application to the Imperial Government, express their strong wish that the permission might be granted as quickly as possible, in order that they may be in a position to telegraph it to the Commissioners before they leave Vancouver's Island.

I avail, &c.
(Signed) R. B. D. MORIER.

No. 99.

The Marquis of Salisbury to Sir J. Pauncefoot.

(Telegraphic.)

Foreign Office, July 13, 1891.

I HAVE received your telegram of the 10th instant relating to the Agreement for arbitration in the Behring's Sea question, and I approve the reply you propose to make to the United States' Government as to the objections entertained by Her Majesty's Government to the proposed wording of clause 7 of the Agreement.

No. 100.

Colonial Office to Foreign Office.—(Received July 14.)

Sir,

Downing Street, July 14, 1891.

WITH reference to your letter of the 19th June, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, forwarding a copy of a letter addressed to the Minister of Marine and Fisheries on behalf of the British Columbia Sealers' Association, setting forth their objections to the passing of the Behring's Sea Seal Fishery Act.

I am also to inclose the draft of a reply which his Lordship proposes, with Lord Salisbury's concurrence, to return to this despatch.

I am, &c.
(Signed) ROBERT G. W. HERBERT.

Inclosure 1 in No. 100.

Lord Stanley of Preston to Lord Knutsford.

My Lord,

Government House, Ottawa, June 24, 1891.

I HAVE the honour to transmit herewith a copy of an approved Minute of the Privy Council, submitting copy of a letter addressed to the Minister of Marine and Fisheries on behalf of the British Columbia Sealers' Association, setting forth the objections of that body to the passing of the Bill of the Imperial Parliament to prohibit sealing in the Behring's Sea.

I have, &c.
(Signed) STANLEY OF PRESTON.

Inclosure 2 in No. 100.

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council, on the 22nd June, 1891.

ON a Report, dated the 17th June, 1891, from the Minister of Marine and Fisheries, stating that he has received from Messrs. E. B. Marvin and Co., of Victoria, British Columbia, a letter on behalf of the British Columbia Sealers' Association, detailing the objections to the Bill then before the Imperial Parliament to prohibit sealing in Behring's Sea, which a meeting of the owners of sealing-vessels and other interested parties discussed.

The Minister observes that the Association anticipate the effect of the Bill passing in its present form will be ruinous to British subjects hitherto participating in the industry.

They are much opposed to the stipulation allowing the lessees to take 7,500 seals for food for the natives, and assert that the natives employed by the lessees are taken from Oonalaska to the seal islands, and after the expiry of the killing-season are taken back to Oonalaska, a limited number only being left on the islands during the winter.

If allowed to take 7,500, it is feared this permission would be used as a cloak to unlimited killing. They consider any close season adopted should be general, without any exception.

The Minister further observes that in the last paragraph of the communication appended, the Association ask to be allowed to send two competent men to represent their case before the Arbitrators.

The Minister appends a copy of the letter in question, together with a copy of his reply thereto.

The Committee, on the recommendation of the Minister of Marine and Fisheries, advise that your Excellency be moved to transmit a copy of this Minute to the Right Honourable the Secretary of State for the Colonies for the information of Her Majesty's Government.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. McGEE,
Clerk of the Privy Council.

Inclosure 3 in No. 100.

Messrs. Marvin and Co. to Mr. Tupper.

Dear Sir,

Victoria, British Columbia, June 5, 1891.

A MEETING of owners of sealing-vessels and others interested was held last evening to take into consideration the present Bill, now before the Imperial Parliament, and the hardships that would arise from the Bill passing in the present form, and if carried into effect will be ruinous to those British subjects engaged in the business.

There are some matters in connection with the passing of the Bill, and also the demand made by the American Government for the privilege of taking 7,500 seals for the natives' food, which we strongly object to. We therefore lay our views before you with the object of future information and guidance of the Arbitrators in the settlement of this question, matters that are of vital importance to all those engaged in the sealing business.

In taking up the demands made by the American Government for 7,500 seals for food, for your information we beg to state that the natives employed by the lessees of the Pribiloff Islands are taken from Oonalaska to the Islands of St. Paul and St. George about the 1st June, and remain there during the killing season, which continues until about the 1st September, when they are removed back to Oonalaska. About six men are left on each island during the winter, to prevent any raid being made after the Company have taken their seals. The natives living at Oonalaska live as well as any white man can live. Those on the islands are also provided with food for the season. The plea set up by the American Government, that they want 7,500 seals to feed the natives, is a blind, and only to gain that advantage over the Imperial Government. That privilege being allowed them, what is to prevent them from taking 70,000? There will be no check to prevent them doing so.

The principal lessees of the islands, Leibes and Co., have a large cannery at Kodiak, also a fast steamer running between there and the seal islands. They can carry away any quantity of seals when they want them. The facts are not generally known, only to those engaged in the business. In the settlement of this question, should any such advantage be allowed the American Government, it will be all they would ask, for, as they would be in a position to kill all the seals they require regardless of preserving life; if it is decided to have a close season, let it be general. Give no advantage to any one, under no plea, especially that set up by the American Government, viz., food for natives.

The British Columbian sealers have exactly the same grounds to work on that the American Government claim in regard to feeding our natives. We have in all 1,000 natives employed on our vessels that live principally on the seal during the sealing season, and earn through their own industry from 500 dollars to 750 dollars while employed seven to eight months in the year. They formerly were hostile to all Whitemen. Life was not safe among them, but since the sealing industry has become a legitimate business and profitable, the Indians have become civilized and industrious, and look forward to the sealing season the same as our Eastern fishermen look forward to theirs. The change in their habits and mode of living is most remarkable when compared with the savage state they lived in before the sealing business commenced. They have now comfortable clothing, good homes, and plenty to eat, all earned by their own industry. If our own Indians can earn their own living and make money in this business, the natives of Behring's Sea, employed by the Sealing Company, can do the same, and do so, although not so well paid as our Indians. The plea set up by the American Government, "food for the natives," we strongly protest against, as a dodge on the part of the Government to get the small end of the wedge in. Another question in regard to the matter. Supposing there should be a close season? We have fifty vessels engaged in this business, employing about 2,000 men, half of them being natives, and bringing in a revenue to those employed sufficient to make them comfortable, and support their families well; also the supplies required for the vessels adds largely to the revenue of the Dominion, and helps to make up the large amount of duty collected at Victoria. What will become of the natives if this industry is closed. It may cost the Dominion millions to provide for them and keep them in order; now they are happy and contented, having comforts the same as Whitemen. If deprived of their living by the closing of sealing, a man's life would not be safe among them; also, what employment are we going to give our Whitemen, a majority of them young men, that have taken up this business for their future living, nearly all belonging to the Eastern provinces. It is too serious a matter to settle in haste, especially for the future prosperity of British Columbia and the Dominion generally. It not only gives employment to men on vessels, but has been the result of some ten new vessels being built here last year, and a further increase provided no interference is allowed to closing the sea.

If the Americans are allowed their 7,500 seals, they will gain the main point they have been seeking, while our vessels will be laid up to rot, and starvation to those employed in the business. The seal is a migratory animal and does not belong to any one nation. This outcry by the American Government of preserving seal-life is well understood by us as meaning funds for Uncle Sam. Let the Dominion of Canada have a share. They have as much right as the other nations. If Canada will only protect

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her subjects in matters of this kind, and not allow Uncle Sam to take all the loaves and fishes, she will be a prosperous country. Having laid the matter before you in rather a rough manner, we kindly ask your earliest consideration in this matter, and would call your attention to the facts stated, not prejudicially, but in a calm and deliberate manner, fully realizing our position to be bankruptcy and ruin to all engaged, if carried out.

We therefore humbly ask, on behalf of the sealers, that you will kindly use your influence to have the Arbitration Committee allow the Sealers' Association to send two competent men, selected by them, as representatives on our behalf.

We have, &c.

(On behalf of the Sealers' Association),

(Signed) E. B. MARVIN AND CO.

Inclosure 4 in No. 100.

Mr. Tupper to Messrs. Marvin and Co.

Gentlemen,

Ottawa, June 13, 1891.

I BEG to acknowledge the receipt of your letter of the 5th instant. I observe what you say touching the proposal that the lessees of the United States' Government may, pending a close season, take 7,500 seals for food for the natives on the Pribyloff Islands, and your suggestion that abuses might follow the concession of such a privilege, and the expression of your desire that, if a close season be adopted, it should be general without any exception.

I have considered the arrangements which you advance in support of this contention.

I also note your views touching the proposed compensation of British citizens, who may suffer from the enforcement of a close season, and have to inform you that I have inclosed a copy of your communication to his Excellency the Governor-General, and have requested his Excellency to cause your views to be communicated to the Imperial authorities as soon as possible.

Yours, &c.

(Signed) CHARLES H. TUPPER.

Inclosure 5 in No. 100.

*Draft of Despatch to Lord Stanley of Preston.**

My Lord,

Downing Street, July , 1891.

I HAVE the honour to acknowledge the receipt of your despatch of the 24th ultimo, transmitting copy of an approved Minute of the Privy Council, inclosing copy of a letter addressed to the Minister of Marine and Fisheries by the British Columbian Sealers' Association, in which their objections to the Imperial Behring's Sea Seal Fishery Act are set forth.

With regard to the anticipations of the Association as to the loss likely to be suffered by British subjects through the operation of the Act, I have already informed your Lordship of the decision of Her Majesty's Government with regard to the payment of compensation in such cases, and need only refer you to the communications which have already passed on the subject.

The only other question raised in the letter from the Association which appears to call for notice is their wish to be heard before the Arbitration Commission.

As you are aware, a Joint Commission of Experts has been appointed to examine all questions connected with seal life and the fur-seal industry for submission to the Arbitrators, and I request that you will cause the Association to be informed that they should lay any statements they may wish to make before this Commission of Experts in the first instance, and that, in the event of its being found necessary to call evidence before the Arbitrators in addition to that which will be presented by the Commission of Experts, Her Majesty's Government will not fail to bear their wishes in mind.

I have, &c.

* This despatch was sent on July 16, 1891.

No. 101.

The Marquis of Salisbury to Sir R. Morier.

Sir,

Foreign Office, July 15, 1891.

I HAVE to acknowledge the receipt of your Excellency's despatch of the 9th instant, inclosing a copy of a note which you had addressed to the Russian Government on the Behring's Sea question, and to state that your action, as reported in that despatch, is approved by Her Majesty's Government.

I am, &c.
(Signed) SALISBURY.

No. 102.

Foreign Office to Colonial Office.

Sir,

Foreign Office, July 15, 1891.

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your letter of the 14th instant, with its inclosures relating to the objections entertained by the British Columbian Sealers' Association to the passing of "The Seal Fishery (Behring's Sea) Act. 1891."

I am to state, for Lord Knutsford's information, that Lord Salisbury concurs in the reply which it is proposed to return to Lord Stanley of Preston's despatch on this subject.

I am, &c.
(Signed) T. H. SANDERSON.

No. 103.

Sir G. Baden-Powell to the Marquis of Salisbury.—(Received July 16.)

My Lord,

New York, July 5, 1891.

I HAVE the honour to inform your Lordship that I have this day transmitted to you a telegraphic despatch, of which the following is a paraphrase:—

"I have the honour to inform your Lordship that I am of opinion that it is necessary that I should take with me in Behring's Sea, so as to avoid delay, the permit of the Russian Government to visit their islands should occasion arise.

"I should be glad if this permit were forwarded to me—care of the Admiral, Esquimaux—if possible, by the mail leaving England on the 7th July."

I may add, in explanation of the above telegram, that as the Russian islands are as much as 2,000 miles from civilized ports, I deemed it advisable to carry with me the necessary permit in case I found it expedient to make inquiries on those islands in accordance with clause 6 of your Lordship's letter of instructions.

I have, &c.
(Signed) GEORGE BADEN-POWELL.

No. 104.

Sir R. Morier to the Marquis of Salisbury.—(Received July 17.)

(Telegraphic.)

St. Petersburg, July 17, 1891.

I HAVE been informed by the Under-Secretary of State for Foreign Affairs that he felt certain that, as soon as a decision had been come to by the three Ministries interested in the question of the visit of our Commissioners to the Russian seal islands in the Behring's Sea, telegraphic instructions would be sent to the Governor of Vladivostok to see that all facilities for the investigations required shall be accorded to them.

The Marquis of Salisbury to Sir R. Morier.

Sir,

Foreign Office, July 17, 1891.

I HAVE received your Excellency's despatch of the 7th instant, inclosing a note from the Russian Government on the subject of the Agreement which has recently been concluded between this country and the United States for preventing the killing of seals during the present season in a certain specified portion of Behring's Sea.

In the course of this note M. de Giers alludes to the fact that the text of the Agreement is not known to him otherwise than through the public press.

Copies of the Agreement in the form in which it was signed were forwarded to you in my despatch of the 9th instant. I have to request your Excellency to communicate a copy to M. de Giers, and to state that, in order to guard against any possible inaccuracies, Her Majesty's Government were awaiting the receipt of the signed original from Her Majesty's Minister at Washington before instructing you to place its text in the hands of the Russian Government.

With regard to the conditions on which M. de Giers states that Russia would be willing to become a party to the Agreement, you are authorized to state that, although Her Majesty's Government would be very willing to enter into an arrangement with Russia and the United States to prohibit sealing during this season to the west as well as to the east of the line of demarcation mentioned in the Agreement, they understand that the United States' Government are unable to do so without fresh legislation, which is not possible at this moment, as Congress is not in session. Any agreement of this nature for the present season could therefore only be made by Russia and England alone, and it would have the effect of leaving the western portion of Behring's Sea open to United States' citizens, while closing it to British and Russian subjects.

For this reason Her Majesty's Government do not think that such an arrangement as M. de Giers proposes would be desirable, and they believe that his Excellency, on consideration, will concur in their view.

I am, &c.
(Signed) SALISBURY.

No. 106.

The Behring's Sea Commissioners to the Marquis of Salisbury.—(Received July 20.)

My Lord,

Ottawa, July 7, 1891.

WE have the honour to acknowledge the receipt of your Lordship's despatch of the 24th June, informing us that the Queen has been graciously pleased to appoint us to be her Commissioners for the purpose of inquiring into the conditions of seal life in Behring's Sea and other parts of the North Pacific Ocean, and inclosing Her Majesty's Commission under the sign manual to that effect.

We have carefully noted the several instructions contained in your Lordship's despatch under reply, and trust that, acting under these instructions, we shall successfully bring to a conclusion the matters intrusted to our charge.

We may add, that Mr. Ashley Froude commenced his duties as Secretary to the Commission on the 25th June.

We have, &c.
(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

No. 107.

The Behring's Sea Commissioners to the Marquis of Salisbury.—(Received July 20.)

My Lord,

Ottawa, July 7, 1891.

AS your Lordship has been already informed by a telegram from Queenstown, dated the 28th June, your Lordship's despatch of the 27th June, stating that formal permission to visit the Pribyloff Islands will be handed to us by the United States' authorities, has been duly received.

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We have also to report that Mr. Consul Fraser handed to us at New York, on the 5th instant, a letter from the Treasury Department at Washington, of which a copy is inclosed, for your Lordship's information, empowering us to visit the Pribyloff Islands for the purposes of our mission.

We have, &c.
(Signed) GEORGE BADEN-POWELL
GEORGE M. DAWSON

Inclosure in No. 107.

Mr. Spaulding to Mr. Williams.

Sir, Treasury Department, Washington, June 25, 1891.
THE 4th section of the *modus vivendi* respecting the fur-seal fisheries in Behring's Sea, concluded on the 15th instant, provides as follows:—

"In order to facilitate such proper inquiries as Her Majesty's Government may desire to make with a view to the presentation of the case of that Government before Arbitrators, and in expectation that an agreement for arbitration may be arrived at, it is agreed that suitable persons designated by Great Britain will be permitted at any time, upon application, to visit or to remain upon the seal islands during the present sealing season for that purpose."

As it appears from a communication, dated the 23rd instant, from the Honourable the Secretary of State, that Sir George Baden-Powell, M.P., and Professor George Mercer Dawson have been appointed Commissioners on behalf of Her Britannic Majesty to proceed to the Pribyloff Islands for the purpose of examining into the fur-seal fisheries in Behring's Sea, and that the British Minister at this capital has requested that the necessary permission may be granted to the above-named gentlemen to visit and remain on the islands during the current fishing season, you are directed to afford Sir George Baden-Powell, M.P., and Professor George Mercer Dawson every facility to enable them to accomplish their object in this respect.

I am, Sir, very respectfully,
Yours, &c.,
W. SPaulding, Acting Secretary.

No. 108.

Colonial Office, London, July 22, 1891.

Sir, Downing Street, July 2, 1891.
I AM directed by the Secretary of State for the Colonies to transmit to you, for the information of the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, reporting the publication of the Agreement between Her Majesty's Government and the Government of the United States for a *modus vivendi* in relation to the fur-seal fisheries in Behring's Sea.

(Signed) ROBERT G. W. HERBERT

Inclosure in No. 108.

Lord Stanley of Preston to Lord Knutsford.

My Lord, Government House, Ottawa, June 26, 1891.
I HAVE the honour to inclose herewith a copy of an approved Minute of the Privy Council, authorizing the issue of a Proclamation giving publicity to the Agreement between Her Majesty's Government and that of the United States of the 15th instant for a *modus vivendi* in relation to the fur-seal fisheries in Behring's Sea.

I have, &c.
(Signed) STANLEY OF PRESTON.

Inclosure 2 in No. 108.

Report of a Committee of the Honourable the Privy Council for Canada, approved by his Excellency the Governor-General in Council, on the 19th June, 1891.

THE Committee of the Privy Council for Canada, on the recommendation of the Minister of Marine and Fisheries, advise that your Excellency do cause a Proclamation to be issued giving publicity to the Agreement between the Imperial Government and that of the United States of the 15th June instant for a *modus vivendi* in relation to the fur-seal fisheries in Behring's Sea.

(Signed)

JOHN J. MCGEE,
Clerk of the Privy Council.

Inclosure 3 in No. 108.

Extract from the "Canada Gazette" of June 20, 1891.

Proclamation.

(L.S.) STANLEY OF PRESTON.

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland
Queen, Defender of the Faith, &c.

To all to whom these presents shall come, or whom the same may in any wise concern, greeting,

A Proclamation.

(Signed)

JNO. S. D. THOMPSON,
Attorney-General, Canada.

WHEREAS an Agreement for a *modus vivendi* between our Government and the Government of the United States in relation to the fur-seal fisheries in Behring's Sea was concluded on the 15th day of June, in the year of our Lord 1891, on the following terms, that is to say:—

"Agreement between the Government of Her Britannic Majesty and the Government of the United States for a Modus Vivendi in relation to the Fur-seal Fisheries in Behring's Sea.

"For the purpose of avoiding irritating differences, and with a view to promote the friendly settlement of the questions pending between the two Governments touching their respective rights in Behring's Sea, and for the preservation of the seal species, the following Agreement is made without prejudice to the rights or claims of either party:—

"1. Her Majesty's Government will prohibit, until May next, seal-killing in that part of Behring's Sea lying eastward of the line of demarcation described in Article I of the Treaty of 1867 between the United States and Russia, and will promptly use its best efforts to insure the observance of this prohibition by British subjects and vessels.

"2. The United States' Government will prohibit seal-killing for the same period in the same part of Behring's Sea, and on the shores and islands thereof, the property of the United States (in excess of 7,500 to be taken on the islands for the subsistence and care of the natives), and will promptly use its best efforts to insure the observance of this prohibition by United States' citizens and vessels.

"3. Every vessel or person offending against this prohibition in the said waters of Behring's Sea, outside of the ordinary territorial limits of the United States, may be seized and detained by the naval or other duly commissioned officers of either of the High Contracting Parties, but they shall be handed over as soon as practicable to the authorities of the nation to which they respectively belong, who shall alone have jurisdiction to try the offence and impose the penalties for the same. The witnesses and proofs necessary to establish the offence shall also be sent with them.

"4. In order to facilitate such proper inquiries as Her Majesty's Government may desire to make, with a view to the presentation of the Case of that Government before Arbitrators, and in expectation that an agreement for arbitration may be arrived at, it is agreed that suitable persons designated by Great Britain will be permitted at any time, upon application, to visit or to remain upon the seal islands during the present sealing season for that purpose.

"Signed and sealed in duplicate at Washington, this 15th day of June, 1891, on behalf of their respective Governments, by Sir Julian Pauncefote, G.C.M.G., K.C.B., Her Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, and William F. Wharton, Acting Secretary of State of the United States.

(Signed)

"JULIAN PAUNCEFOTE.

(Seal.)

"WILLIAM F. WHARTON."

(Seal.)

Now know ye, that we have by this our Royal Proclamation caused the said Agreement to be made public, to the end that the same and every part thereof may be observed and fulfilled with good faith by all our loving subjects.

Of all which our loving subjects and all others whom these presents may concern are hereby required to take notice, and to govern themselves accordingly.

In testimony whereof we have caused these our Letters to be made Patent, and the Great Seal of Canada to be hereunto affixed. Witness, our right trusty and well-beloved the Right Honourable Sir Frederick Arthur Stanley, Baron Stanley of Preston, in the county of Lancaster, in the Peerage of the United Kingdom, Knight Grand Cross of our Most Honourable Order of the Bath, Governor-General of Canada.

At our Government House, in our city of Ottawa, this 19th day of June, in the year of our Lord 1891, and in the fifty-fourth year of our reign.

By command,

(Signed)

J. A. CHAPLEAU,

Secretary of State.

No. 100.

The Behring's Sea Commissioners to the Marquis of Salisbury.—(Received July 23.)

My Lord,

Ottawa, July 9, 1891.

WE have the honour to request that your Lordship will be good enough to move the Japanese Government to supply us with information on the following points:—

1. Records of fur seal-skins brought to Japan for any years in the present century.
2. Localities where seal-skins are taken.
3. Whether taken at sea or on shore.
4. Details of any known breeding places.
5. Whether, and if so what, Regulations are in force on breeding grounds.
6. List of vessels fitted out in Japan for fur-seal fishery in this and past seasons, and from what ports.
7. Whether seal fishery has increased or decreased in recent years, with causes of such increase or decrease.
8. Any other information concerning Japanese seal fisheries, especially documentary evidence.

We would venture to suggest to your Lordship that the Japanese Government should be requested to send such information on the above points as they may be able to procure direct to us, care of the Postmaster, Victoria, British Columbia.

We have, &c.

(Signed)

GEORGE BADEN-POWELL.

GEORGE M. DAWSON.

P.S.—I have ventured to send a copy of this despatch, privately, to Mr. de Bunsen (Legation, Japan) to-day, in order to save valuable time.

G. B-P.

No. 110.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received July 23.)

My Lord,

Washington, July 14, 1891.

IMMEDIATELY on the receipt of your Lordship's telegram of the 13th instant, respecting the proposed compensation clause in the Behring's Sea Arbitration Agreement, I addressed a note on the subject to the Acting Secretary of State, of which I have the honour to inclose a copy.

I have, &c.

(Signed)

JULIAN PAUNCEFOTE.

Inclosure in No. 110.

Sir J. Pouncefote to Mr. Wharton.

Sir,

Washington, July 13, 1891.

SINCE the receipt of your note of the 25th ultimo, of which I transmitted a copy to the Marquis of Salisbury, I have been in telegraphic communication with his Lordship respecting the two clauses (6 and 7) which, by direction of the President, you have proposed for adoption in the Behring's Sea Arbitration Convention, and also respecting the form of agreement for carrying out the arrangement for the appointment of a Joint Commission to inquire into the conditions of seal life in Behring's Sea.

I desire at present to confine myself to the clause proposed in your note which deals with the question of compensation, namely, clause 7.

It is the only one which appears to me to raise any serious difficulty, and I trust that, after considering the following observations, and with a view to expediting the conclusion of this negotiation, the President will not object to the substitution of a clause in the form which I shall presently have the honour to submit. Her Majesty's Government have no desire to exclude from the consideration of the Arbitrators any claim of compensation in relation to the Behring's Sea fisheries which the United States' Government may believe themselves entitled to prefer consistently with the recognized principles of international law. But they are of opinion that it is inexpedient, in a case involving such important issues and presenting such novel features, to prejudge, as it were, the question of liability by declaring that compensation shall be awarded on a hypothetical state of facts. Her Majesty's Government consider that any legal liability arising out of the facts as proved and established at the arbitration should be as much a question for argument and decision as the facts themselves; and, in order that this should be made quite clear, and that both Governments should be placed, in that respect, on the same footing, I am authorized by Lord Salisbury to submit the following clause in substitution for the 7th clause proposed by the President:—

"7. Either Government may submit to the Arbitrators any claim for compensation which it may desire to prefer against the other Government in respect of any losses or injuries in relation to the fur-seal fishery in Behring's Sea, for which such other Government may be legally liable.

"The Arbitrators shall decide on the legality of every such claim, and, if it shall be established, they may award such compensation as in their judgment shall seem equitable."

I have, &c.

(Signed)

JULIAN PAUNCEFOTE.

No. 111.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received July 23.)

Telegraphic.)

Washington, July 23, 1891.

WITH reference to my despatch of the 14th instant, on the subject of the Behring's Sea compensation clause, I have the honour to state that after long discussions, in the course of which I have insisted on the principle contended for in my above-mentioned despatch, I have to-day received a note from the United States' Government which is to the following effect:—

[See Inclosure in Sir J. Pouncefote's despatch of the 24th July, 1891:

Inclosure in No. 112, *infra*.]

No. 113.

The Marquis of Salisbury to Mr. Fraser.

(Telegraphic.)

Foreign Office, July 24, 1891.

THE following is urgent :—

The British Commissioners in Behring's Sea are anxious to receive information on the following points :—

[See despatch from Behring's Sea Commissioners of the 9th July, 1891 :
No. 109.]

You should forward any information you can obtain to the Behring's Sea Commissioners, addressed to the care of the Postmaster, Victoria, British Columbia, with as little delay as possible.

No. 114.

Sir R. Morier to the Marquis of Salisbury.—(Received July 27.)

My Lord,

St. Petersburg, July 22, 1891.

I HAVE this day received your Lordship's despatch of the 17th instant, in reference to the Fur-seal question and the Behring's Sea, and have addressed to M. de Giers the note of which I have the honour to inclose a copy herewith.

I have, &c.

(Signed) R. B. D. MORIER.

Inclosure in No. 114.

Sir R. Morier to M. de Giers.

M. le Ministre,

St. Petersburg, July 10 (22), 1891.

I HAVE not failed to transmit to Her Majesty's Principal Secretary of State for Foreign Affairs the note which your Excellency did me the honour to address to me on the 14th (26th) June last, with reference to the Behring's Sea Agreement concluded between Her Majesty's Government and that of the United States.

With reference to the conditions on which your Excellency states that Russia would be willing to become a party to this Agreement, I am instructed to inform you that, although Her Majesty's Government would be very willing to enter into an arrangement with Russia and the United States to prohibit sealing, during this season, to the west as well as to the east of the line of demarcation mentioned in the Agreement, they understand that the United States' Government are unable to do so without fresh legislation, which is not possible at this moment, as Congress is not in session.

Any Agreement of this nature for the present season could, therefore, only be made by Russia and England alone, and it would have the effect of leaving the western portion of Behring's Sea open to United States' citizens while closing it to British and Russian subjects.

For this reason Her Majesty's Government do not think that such an arrangement would be desirable, and they believe that your Excellency, on consideration, will concur in their view.

I avail, &c.

(Signed) R. B. D. MORIER.

No. 115.

The Marquis of Salisbury to Sir J. Pouncefote.

Sir, *Foreign Office, July 27, 1891.*
 I HAVE received your despatch of the 14th instant, inclosing copy of your note to the United States' Government respecting the compensation clause to be inserted in the proposed Agreement for arbitration on the Behring's Sea question.

The terms of your note are approved by Her Majesty's Government.

I am, &c.
 (Signed) SALISBURY.

No. 116.

Mr. Howard to the Marquis of Salisbury.—(Received July 29.)

(Telegraphic)

St. Petersburg, July 29, 1891.

WITH reference to Sir Robert Morier's telegram of the 17th instant respecting the visit of the British Commission to the Russian seal-fisheries, I have the honour to state that I have received a note from the Russian Government giving them the necessary permission and stating that instructions had been sent to the Governor-General of the Amoor Province to facilitate the object of their mission.

No. 117.

The Marquis of Salisbury to Mr. Howard.

Sir, *Foreign Office, July 31, 1891.*
 I HAVE received your telegram of the 29th instant, reporting that the Russian Government have authorized the British Commissioners in Behring's Sea to visit the Russian seal fisheries, and that the Governor-General at Amoor has been requested to afford them every facility.

I have to request you to convey to the Russian Government the thanks of Her Majesty's Government for their action in this matter.

I am, &c.
 (Signed) SALISBURY.

No. 118.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received August 3.)

My Lord,

Washington, July 24, 1891.

IN my despatch of the 14th instant I had the honour to transmit to your Lordship a copy of the note of the 13th which I addressed to the United States' Government, submitting the new clause in the Arbitration Agreement which I had been authorized by your Lordship to propose on the subject of damages. I have had several discussions at the State Department, in the course of which I have strongly contended for the principle that the validity of any claim put forward by either party should be left to the decision of the Arbitrators.

This I consider a most important point, for it is highly improbable that the United States' Government should succeed in establishing their claim to an exclusive right of fishery on the high seas, except under a new rule of international law, based on exceptional circumstances, and which the Arbitrators may lay down as applicable to the present case. If so, it would seem inequitable that Great Britain should pay damages for the infraction of an *ex post facto* rule of law. Moreover, a claim of damages for injury caused to the property of the United States in the seal islands alleged to have been caused by pelagic sealing may be open to objection on the ground of its remoteness and of the impracticability of fixing any correct measure of compensation.

I have felt much anxiety lest the President should persist in the endeavour to obtain a previous admission of liability on the part of Her Majesty's Government in a

involving (as I stated in my note to the United States' Government) such important issues and presenting such novel features.

It was not until yesterday that I received the official reply of the United States' Government to my note of the 13th instant, of which I telegraphed the substance to your Lordship.

I have the honour to inclose a copy of that reply, from which your Lordship will perceive that the President, while maintaining that the United States would be justified in insisting that Her Majesty's Government should admit responsibility in certain events, is willing to waive that point, and to modify his proposals with a view to remove what seems to be the last point of difference in this protracted discussion.

The President urges that the clause should contain a statement in general terms of the claims which each Government desires to prefer, and, in his reply, he proposes a new form in which the claims are so stated and left for the decision of the Arbitrators, thus conceding the principle for which I have contended.

The statement of the British claim in this new clause appears to me to be too restrictive, as it would seem to exclude losses and injuries arising from interference with our vessels as distinguished from actual seizures, and takes no account of the personal claims of the British subjects imprisoned and otherwise damaged in the proceedings resulting from those seizures.

I do not apprehend that the United States' Government will object to our claim being stated in our own terms; and, subject to that modification, I venture to think that the clause now proposed by the President will be acceptable to Her Majesty's Government, and will practically bring this long negotiation to a satisfactory termination.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure in No. 118.

Mr. Wharton to Sir J. Pauncefote.

Sir,

Washington, July 23, 1891

THE President directs me to say, in response to your note of the 13th instant, that he noticed with pleasure the good progress towards a full agreement upon the terms of arbitration indicated by your statement that only the 7th clause, as proposed by this Government, appears to you "to raise any serious difficulty."

That clause was thus stated in my note of the 25th June:—

It shall be competent to the Arbitrators to award such compensation as, in their judgment, shall seem equitable, to the subjects or citizens of Great Britain whose vessels may have been seized by the United States in the Behring's Sea, if such seizures shall be found by the Arbitrators to have been unwarranted; and it shall also be competent to the Arbitrators to award to the United States such compensation as, in their judgment, shall seem equitable for any injuries resulting to the United States, or to the lessees from that Government of the privilege of taking seals on the Pribyloff Islands, by reason of the killing of seals in the Behring's Sea by persons acting under the protection of the British flag, outside of the ordinary territorial limits, and since the 1st day of January, 1886, if such killing shall be found to have been an infraction of the rights of the United States."

The objection you make to this clause is thus stated by you:—

"Her Majesty's Government have no desire to exclude from the consideration of the Arbitrators any claim of compensation in relation to the Behring's Sea fisheries, when the United States' Government may consider themselves entitled to prefer consistently with the recognized principles of international law; but they are of opinion that it is inexpedient, in a case involving such important issues, and presenting such novel features, to prejudge, as it were, the question of liability by declaring that compensation shall be awarded on a hypothetical state of facts. Her Majesty's Government consider that any legal liability arising out of the facts as proved and established at the arbitration should be as much a question for argument and decision as the facts themselves, and in order that this should be made quite clear, and that both Governments should be placed in that respect on the same footing," &c.

The President was not prepared to anticipate this objection, in view of the fact that Lord Salisbury, in his note of the 21st February last, had asked a specific submission to the Arbitrators of the British claim for seizures made in the Behring's Sea. His language, which was quoted in my note of the 25th June, was as follows:—

"There is one omission in these questions which I have no doubt the Government of the President will be very glad to repair, and that is the reference to the Arbitrator of the question, What damages are due to the persons who have been injured, in case it shall be determined by him that the action of the United States in seizing British vessels has been without warrant in international law?"

This could only be understood as a suggestion that the claims of the respective Governments should be stated and given a specific reference. And so, in the 7th clause proposed, the claim of Great Britain for seizures made is defined and referred in terms so correspondent to the request of Lord Salisbury that it cannot be supposed objection would have been made to it if it had stood alone. But a particular statement of the British claim for compensation certainly made proper, and even necessary, a like statement of the claims of the United States, and the President is not able to see that the reference proposed was in any respect unequal. If it should be found by the Arbitrators that the United States had without right seized British vessels in the Behring's Sea, the Arbitrators were authorized to give compensation; and if, on the other hand, these and other British vessels were found to have visited that sea, and to have killed seals therein in violation of the rights of the United States and to the injury of its property interest, the Arbitrators were authorized to give compensation. One is not more subject to the objection that it presents a hypothetical state of facts than the other, and both submit the question of the lawfulness or unlawfulness of the acts complained of.

The President believes that Her Majesty's Government may justly be held responsible under the attendant circumstances for injuries done to the jurisdictional or property rights of the United States by the sealing-vessels flying the British flag, at least since the date when the right of these vessels to invade the Behring's Sea and to pursue therein the business of pelagic sealing was made the subject of diplomatic intervention by Lord Salisbury. In his opinion, justice requires that Her Majesty's Government should respond for the injuries done by those vessels, if their acts are found to have been wrongful, as fully as if each had borne a commission from that Government to do the acts complained of. The presence of the master, or even of a third person, under circumstances calculated and intended to give encouragement, creates a liability for trespass at the common law, and much more if his presence is accompanied with declarations of right, protests against the defence which the owner is endeavouring to make, and a declared purpose to aid the trespassers if they are resisted. The justice of this rule is so apparent that it is not seen how in the less technical Tribunal of an international arbitration it could be held to be inapplicable.

The United States might well insist that Her Majesty's Government should admit responsibility for the acts of the Canadian sealers which it has so directly encouraged and promoted, precisely as in the proposal the United States admits responsibility for the acts of its revenue vessels. But with a view to remove what seems to be the last point of difference in a discussion which has been very much protracted, the President is willing to modify his proposal, and directs me to offer the following:—

"The Government of Great Britain having presented the claims of its subjects for compensation for the seizure of their vessels by the United States in Behring's Sea, and the Government of the United States having presented on its own behalf, as well as of the lessees of the privilege of taking seals on the Pribyloff Islands, claims for compensation by reason of the killing of seals in the Behring's Sea by persons acting under the protection of the British flag, the Arbitrators shall consider and decide upon such claims in accordance with justice and equity and the respective rights of the High Contracting Parties, and it shall be competent for the Arbitrators to award such compensation as in their judgment shall seem equitable."

The President thinks that a particular statement of the claims of the respective Governments is more likely to lead to a satisfactory result than the general reference proposed by you. It is believed that the form of reference now proposed by him removes the objections urged by you to his former proposal.

I have, &c.

(Signed)

W. F. WHARTON,

Acting Secretary.

No. 119.

Mr. Howard to the Marquis of Salisbury.—(Received August 3.)

My Lord,

St. Petersburg, July 29, 1891.

WITH reference to my telegram of this day's date, I have the honour to transmit herewith to your Lordship a copy of a note of the 16th (28th) instant from M. de Giers to Sir Robert Morier, acquainting Her Majesty's Ambassador that Sir George Baden-Powell and Professor Dawson are authorized to visit the Russian fisheries in the Behring's Sea, and stating that Baron Korff, Governor-General of the Amoor Province, has been informed of this fact, and has been requested to facilitate, as much as possible, the object of the mission of the above-named Commissioners.

I have, &c.

(Signed) HENRY HOWARD.

Inclosure in No. 119.

M. de Giers to Sir R. Morier.

M. l'Ambassadeur,

Saint-Petersbourg, le 16 (28) Juillet, 1891.

EN réponse à la note de v. Excellence en date du 27 Juin (9 Juillet), je m'empresse de l'informer que Sir George Powell et le Professeur Dawson sont autorisés à visiter nos pêcheries d'otaries dans la Mer de Behring.

Je n'ai pas manqué de porter cette autorisation à la connaissance du Gouverneur-Général de la Province de l'Amour, Baron Korff, en l'engageant à faciliter, autant que possible, aux savants susmentionnés, l'accomplissement de leur tâche.

Veuillez, &c.

(Signé) GIERŠ.

(Translation.)

M. l'Ambassadeur,

St. Petersburg, July 16 (28), 1891.

IN reply to your Excellency's note of the 27th June (9th July), I hasten to inform you that Sir G. Powell and Professor Dawson have been authorized to visit our seal fisheries in Behring's Sea.

I have not failed to inform Baron Korff, the Governor-General of the Province of the Amoor, of this authorization, and to request him to assist the above-mentioned gentlemen as far as possible in the accomplishment of their task.

I avail, &c.

(Signed) GIERŠ.

No. 120.

Colonial Office to Foreign Office.—(Received August 3.)

Sir,

Downing Street, August 1, 1891.

WITH reference to your letter of the 9th May last, forwarding copies of a communication from Mr. C. Hawkins respecting the seal fishery in the North Pacific, I am directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, copy of a despatch from the Governor-General of Canada, inclosing copy of a Minute of the Privy Council on the subject of Mr. Hawkins' statements.

I am, &c.

(Signed) JOHN BRAMSTON.

Inclosure 1 in No. 120.

Lord Stanley of Preston to Lord Knutsford.

My Lord,

Cascapedia River, New Richmond, P.Q., July 3, 1891.

WITH reference to your Lordship's despatch of the 20th May last, transmitting a copy of a letter from Mr. Hawkins on the subject of the seal fishery in Behring's Sea, I have the honour to forward herewith a copy of an approved Minute of the Privy

Council, embodying a Report of the Minister of Marine and Fisheries dealing with the question.

I have, &c.
(Signed) STANLEY OF PRESTON.

Inclosure 2 in No. 120.

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council on the 27th June, 1891.

THE Committee of the Privy Council have had under consideration certain papers from the Colonial Office on the subject of the seal fishery in Behring's Sea.

The Minister of Marine and Fisheries, to whom the matter was referred, observes that Mr. Hawkins states "since about the year 1885 we have received in this country (England) large numbers of seal-skins, known in the trade as the north-west coast skins, the same having been taken in the open sea, and, from appearances that are unmistakable to the initiated, are exclusively the skins of female seals pregnant; these are all shot, and I have been informed that for every skin recovered five or six are lost through sinking when struck by the shot. . . ."

The Minister further observes, in view of the numerous reports in which evidence of practical hunters and of other well-qualified authorities was submitted, refuting statements similar to the assertion made in the letter under review touching the percentage of seals struck and secured by the sealers, it would seem that no necessity exists for a reiteration of the evidence embodied in the Minute of Council approved by your Excellency on the 4th November, 1889.

The Minister, regarding the statement contained in Mr. Hawkins' communication as to what he terms the "north-west coast skins," would advert to the contention of the Canadian Government to the effect that real danger to seal life is to be found in the operations upon the hauling-grounds and rookeries increased by the catch of seals when slowly moving along or sojourning on the north-west coast of America, the females being then unquestionably in pup, before the ultimate swift and direct journey to the rookeries has begun. These seals are the first taken by the sealing fleet on their way to the Behring's Sea, and are distinguished by the sealers as the "coast catch," and by Mr. Hawkins as the "north-west coast skins."

The Minister submits that the testimony produced by Mr. Hawkins in this connection is quite in accord with the information hitherto obtained, and is most valuable in support of the contention of Canada. It has been previously pointed out that although great stress had been placed by the United States' Government on the alleged necessity for prohibiting pelagic sealing in the Behring's Sea, yet no attempt had ever been made by that Government for an arrangement to curtail similar operations along the coast previous to the entry of seals into that sea.

In an attempt to vindicate the methods of the lessees of the seal islands, Mr. Hawkins proceeds: "We, on the other hand, during my experience have had annually large numbers of seal-skins from Alaska, and also from the Copper Islands, which are killed by being clubbed on land, and are selected with judgment, being the skins of young male seals; the older fighting or breeding males are spared."

This is another presentation of the case of the United States' Government for the prohibiting of every other character of sealing but that adopted by the lessees, so frequently combated by your Excellency's advisers. While the Minister of Marine and Fisheries does not deem it necessary to dwell at any length upon the point, he would, in passing, invite attention to the fact that notwithstanding this statement, the United States' Treasury agents now assert the contrary, and the Government of the United States appear to be acting on the Reports of their Agents.

The Minister further observes that a Minute of Council dated the 6th June, 1891, dealt at considerable length with this subject, and it included the Annual Report (1890) of Special Agent C. J. Goff, in which an alarming state of affairs at the rookeries was revealed, due, it was stated, to the indiscriminate slaughter of seals and improvident operations of the lessees. In the opinion of the Agent and his assistants it had become necessary to enforce a total prohibition of the killing of seals for an indefinite period.

The Minister submits that whatever significance Mr. Hawkins' statement may have upon the abstract question of the protection of seal life in the Pacific waters, it can have but little, if any, on the controversy between Great Britain and the United States, as

the evil complained of, even if as great as alleged, occurs outside the disputed area, as he himself implies in his reference to the "north-west coast skins."

The Committee, on the recommendation of the Minister of Marine and Fisheries, advise that your Excellency be moved to forward a copy of this Minute to the Right Honourable the Principal Secretary of State for the Colonies, for the information of Her Majesty's Government.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk, Privy Council.

No. 121.

The Behring's Sea Commissioners to the Marquis of Salisbury.—(Received August 3.)

*Steam-ship "Danube," at Victoria, British Columbia,
July 16, 1891.*

My Lord,

WE have the honour to report that we met at Ottawa on the 6th instant, and on the same evening consulted with the Premier of Canada, Mr. Abbott, and the Minister of Marine, Mr. Tupper, on the subject of our mission.

The Governor-General was absent from Ottawa, but kindly placed Government House at our disposal.

We spent the 7th, 8th, and 9th July in Ottawa in consultation with Ministers and in collecting information and evidence.

On the evening of the 9th instant we left Ottawa by train direct for Vancouver, where we arrived on the 15th instant, and found the chartered steam-ship "Danube" awaiting us at the wharf according to our instructions.

Admiral Hotham, C.B., had crossed from Esquimalt to meet us, and informed us as to the very complete arrangements he had made for Her Majesty's ships in Behring's Sea to assist us in every way.

Shortly after our arrival a deputation, headed by Mr. Oppenheimer, Mayor of Vancouver, waited upon us on behalf of the sealing-vessel owners in the city, with whom we had a most satisfactory conference.

We left Vancouver at 6 p.m., and arrived at Victoria this day at 1 a.m. At 10 a.m. we received, as by previous arrangement, an important deputation of the Board of Trade and Sealers' Association, who gave us most valuable information, and willingly promised to procure more on certain points pending our return. We have also consulted other authorities in Victoria, and completed the equipment of the "Danube."

We leave the port this evening bound for the Pribyloff Islands.

We have, &c.

(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

No. 122.

The Marquis of Salisbury to Sir J. Pauncefote.

(Telegraphic.)

Foreign Office, August 12, 1891.

I HAVE received your despatch of the 24th ultimo.

The modification of the 7th Article of the Arbitration Agreement proposed by the President of the United States, and communicated in Mr. Wharton's note to you of the 23rd ultimo, contains the following words:—

"The Government of the United States having presented on its own behalf, as well as of the lessees of the privilege of taking seals on the Pribyloff Islands, claims for compensation by reason of the killing of seals in Behring's Sea by persons acting under the protection of the British flag, the Arbitrators shall consider and decide upon such claims. . . ."

These words involve the doctrine that Her Majesty's Government are liable to make good losses resulting from the wrongful action of persons sailing outside their jurisdiction under the British flag.

It would be impossible for Her Majesty's Government to accept such a doctrine even at the hands of an Arbitrator. Nor can they admit that, by having asserted

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diplomatically the right of any persons to do that which an Arbitrator subsequently decides such persons cannot do, they are made liable in damages.

This 7th Article, which deals with the question of compensation, is therefore likely to give occasion for lengthy negotiations, and the question arises whether it would not be better, if the Government of the United States will agree to such a course, to sign the other six Articles as to which an agreement has been arrived at, and to proceed with the arbitration, leaving the 7th Article to be treated separately?

No. 123.

The Marquis of Salisbury to Sir J. Pauncefote.

(Telegraphic.)

Foreign Office, August 22, 1891.

I AM of opinion that it will be better for you to clearly recapitulate the grounds, as set forth in the telegram from this Office of the 12th instant, on which Her Majesty's Government cannot agree to the wording of the 7th Article proposed by the President, and that, in lieu of it, you should propose one somewhat as follows:—

"Either of the two Governments may submit to the Arbitrators any question of fact which it may wish to put before them in reference to the claims for compensation which it believes itself or its nationals to possess against the other.

"The question whether or not, and to what extent, those facts, as determined by the Arbitrators, and taken in connection with their decision upon the other questions submitted to them, render such claims valid according to the principles of international law, shall be a matter of subsequent negotiation, and may, if the two Powers agree, be referred in whole or in part to the Arbitrators."

This is not to be taken as a definitive wording, and the proposal should be so made as to leave either side free to amend it.

No. 123*.

Sir G. Baden-Powell to the Marquis of Salisbury.—(Received August 23.)

(Telegraphic.)

Seal Island, August 5, 1891.

HAVE ascertained that this year's take of seals is already considerably in excess of 7,500. On the assumption that the limitation of catch begins only from the date of the signature of the *modus vivendi*, the United States' Agent continues to kill the seals. I am posting despatch on this subject.

No. 124.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received August 23.)

(Telegraphic.)

Newport, August 23, 1891.

WITH reference to your Lordship's telegram of yesterday respecting the clause in the Behring's Sea Agreement on the question of damages, I have the honour to inform your Lordship that I am writing an unofficial letter, marked Private, to the Acting Secretary of State, based on the telegram above mentioned.

No. 125.

The Marquis of Salisbury to Sir J. Pauncefote.

(Telegraphic.)

Foreign Office, August 26, 1891.

I HAVE to request you to communicate to the United States' Government Sir G. B. Powell's telegram of the 5th instant, repeated in my preceding telegram, stating that the United States' Agent at Seal Island continues to kill seals, although the number already killed this year is materially in excess of the limitation agreed upon by the *modus vivendi* of the 15th June last.

You should state that Her Majesty's Government are convinced that the President will not permit any departure from the true spirit of the Agreement, and will take such measures to insure its strict observance as may seem to him to be requisite.

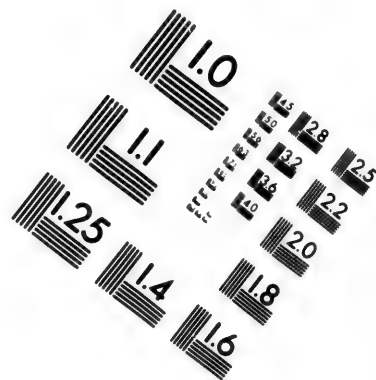
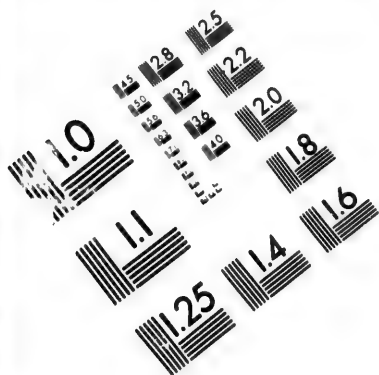
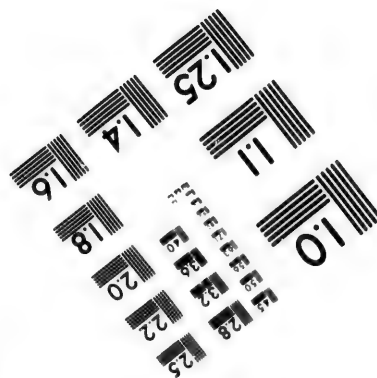
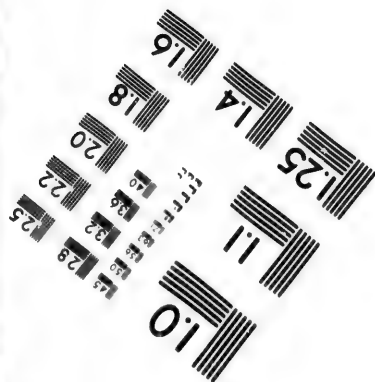
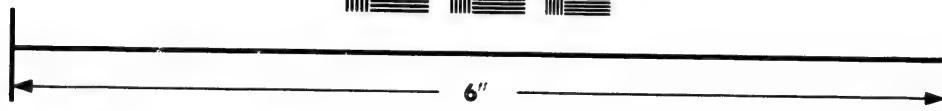
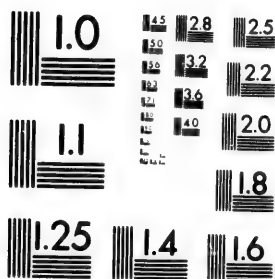


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Sir J. Pauncefote to the Marquis of Salisbury.—(Received August 31.)

My Lord,

Newport, August 20, 1891.

I TRANSMITTED to your Lordship in my despatch of the 23rd June last a copy of the Memorandum which I communicated on the 24th of that month to the Acting Secretary of State, embodying the substance of instructions issued to the British cruisers in Behring's Sea in pursuance of the *modus vivendi*, and suggesting that an Agreement should be come to between the Governments of Great Britain and the United States for mutual indemnities in respect of acts committed by the cruisers of one nation against the vessels of the other in execution of that *modus vivendi*.

As I informed your Lordship in my despatch of the 27th June, I received a communication from the Acting Secretary of State in reply, acquainting me that the above Memorandum had been immediately transmitted to the United States' Navy Department, for their information.

No answer, however, being received to the proposal contained in the latter portion of the Memorandum, I addressed a note on the 8th instant to Mr. Wharton, copy of which I have the honour to inclose, requesting to be informed, at his earliest convenience, of the views of the United States' Government with respect to the suggested Agreement, and I have now received a note from him, in reply, of which I have also the honour to inclose a copy.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure 1 in No. 126.

Sir J. Pauncefote to Mr. Wharton.

Sir,

Newport, August 8, 1891.

ON the 23rd June last I had the honour to place in your hands a Memorandum, embodying the substance of the instructions issued to British cruisers in Behring's Sea in pursuance of the *modus vivendi* signed on the 15th of that month.

The Memorandum also contained a proposal for an Agreement between the Governments of Great Britain and of the United States for mutual indemnities in respect of acts committed by the cruisers of one nation against the vessels of the other in execution of the *modus vivendi*. To that proposal I have not as yet been favoured with a reply, and I should be extremely obliged if you would be good enough to inform me, at your earliest convenience, of the views of your Government with respect to the suggested Agreement.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure 2 in No. 126.

Mr. Wharton to Sir J. Pauncefote.

Sir,

Department of State, Washington, August 17, 1891.

I HAVE the honour to acknowledge the receipt of your note of the 3rd instant, in which you refer to a Memorandum of the 23rd June, left with me the 24th June, in which you submitted a proposal for an Agreement between the Governments of Great Britain and the United States for mutual indemnities in respect of acts committed by the cruisers of one nation against the vessels of the other in execution of the *modus vivendi*.

The President desires me to say, in reply, that it seems to him to be quite unnatural that the two Governments, having come to a friendly understanding as to a *modus vivendi*, and the method of its enforcement, should anticipate or attempt to provide against possible breaches or violations of duty by the vessels of either country. It will be time enough, in the President's opinion, when either Government lodges against the other a complaint in this regard, to consider the question of indemnity. The President desires me to state that he hopes that no such question may arise, but that he will be prepared to meet it in a friendly spirit, if, unfortunately, differences should develop.

I have, &c.

(Signed) W. WHARTON.

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No. 127.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received September 7.)

My Lord;

Newport, August 28, 1891.

WITH reference to your Lordship's telegram of the 22nd instant, I have the honour to inclose copy of the private and unofficial letter which I have addressed to the Acting Secretary of State, relating to the compensation clause in the Behring's Sea Arbitration Agreement.

I have, &c.

(Signed)

JULIAN PAUNCEFOTE.

Inclosure in No. 127.

Sir J. Pauncefote to Mr. Wharton.

(Private and Unofficial.)

Dear Mr. Wharton,

Newport, August 26, 1891.

IN my reply to your official note of the 22nd instant I stated that I hoped to be able to send an answer to your note of the 23rd ultimo in a few days.

Before doing so, however, I am anxious to explain to you privately and unofficially, as I would do verbally were I in Washington, the objection which my Government entertain to the latest form of clause relating to compensation, which has been proposed by the President for adoption as Article 7 in the Behring's Sea Arbitration Agreement. Such a private and unofficial exchange of views at this point of the negotiations may abridge the official correspondence, and facilitate a solution of the present difficulty, on the basis of a suggestion which you made when we discussed the question informally at Washington. My Government are unable to accept the form of clause proposed by the President, because it appears to them, taken in connection with your note of the 23rd ultimo, to imply an admission on their part of a doctrine respecting the liability of Governments for the acts of their nationals or other persons sailing under their flag on the high seas, which is not warranted by international law, and to which they cannot subscribe.

I need hardly say that the discussion of such a point (which after all may never arise) must prolong the negotiation indefinitely. Moreover, it seems premature to enter into such a discussion before the other questions to be submitted to the Arbitrators have been determined, and all the facts on which any liability can arise have been ascertained.

Your suggestion, to which I have referred, was to leave out altogether the question of damages from the Arbitration Agreement, and you may remember that, at the time, I did not encourage the idea, not apprehending that the clause would give rise to such protracted discussion, and being, moreover, anxious that the settlement to be arrived at should embrace and finally dispose of every point in controversy.

There is a middle course, however, which appears to me to commend itself, from every point of view, as a practical and logical solution of the present difficulty. It is to omit the 7th clause as to compensation, and to insert, in its place, a clause referring to the Arbitrators any question of fact which either Government may put to them with reference to the claims for compensation it believes itself to possess. The application of the facts to international law might be a matter for negotiation after they are determined, and, if the two Governments agree, might be referred, in whole or in part, to the Arbitrators. The clause might be worded as follows:—

"Clause 7. Either of the two Governments may submit to the Arbitrators any question of fact which it may wish to put before them in reference to the claims for compensation which it believes itself or its nationals to possess against the other.

"The question whether or not, and to what extent, these facts as determined by the Arbitrators, and taken in connection with their decision upon the other questions submitted to them, render such claims valid, according to the principles of international law, shall be a matter of subsequent negotiation, and may, if the two Powers agree, be referred, in whole or in part, to the Arbitrators."

I do not, of course, propose the above wording as definitive. It should be open to amendment on either side. But if, after submitting it to the President, you should be able to inform me privately that such a clause, under the circumstances, would be acceptable to your Government, I would then address you officially in reply to your note of the 23rd ultimo, and formally make the above proposal, stating the ground on which it is based.

Hoping that this mode of settlement of the last point in dispute will meet with your approval, and that this effort, on my part, to bring the negotiation at once to a satisfactory termination may be successful, I remain, &c.

(Signed)

JULIAN PAUNCEFOTE.

No. 128.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received September 7.)

My Lord,

Newport, August 28, 1891.

WITH reference to my other despatch of this date, I have the honour to transmit herewith copy of the note of the 16th instant from the Acting Secretary of State, referred to in the inclosure to my above-mentioned despatch, in which Mr. Wharton inquired when an answer may be expected to his note of the 23rd ultimo, relating to the proposed compensation clause in the Behring's Sea Arbitration Agreement.

I have, &c.

(Signed)

JULIAN PAUNCEFOTE.

Inclosure in No. 128.

Mr. Wharton to Sir J. Pauncefote.

Sir,

Department of State, Washington, August 22, 1891.

REFERRING to my note to you of the 23rd ultimo, relative to the proposed agreement of Arbitration of certain matters affecting the seal fisheries in Behring's Sea, I would be extremely obliged if you would be kind enough to inform me when an answer to the same may be expected.

I have, &c.

(Signed)

WILLIAM F. WHARTON,

Acting Secretary.

No. 129.

Behring's Sea Commissioners to the Marquis of Salisbury.—(Received September 8.)

Steam-ship "Danube," at St. Paul Island, Alaska,
August 5, 1891.

My Lord,

WE venture to think it desirable that we should at once report to your Lordship on certain points which have come to our knowledge in relation to Article 2 of the *modus vivendi*, and we inclose copy of a letter which we deemed it right to address to the Treasury Agent representing the United States' Government on the Pribyloff Islands.

We send with this despatch to the nearest telegraph office, which is 2,000 miles distant, a telegram of which the following is a paraphrase:—

"Pribyloff Islands, 5th August.—Have the honour to inform your Lordship that this year's take of seals already considerably exceeds 7,500.

"The Agent of the United States' Treasury continues to allow seals to be killed on the assumption that the limited catch is to commence from the date of the signing of the *modus vivendi*. Despatch follows by mail."

Immediately on our arrival here we established relations with the officials of the Government and of the North American Commercial Company of a most friendly character, and they have given us every aid and assistance in our inquiries. But we speedily discovered that before the date of our arrival here (28th July), at the lowest estimate 8,800 seals had been killed this season, and that it was in contemplation to kill at least several hundred more.

We had understood especially from Mr. Wharton's letter to Sir J. Pauncefote of the 6th June, 1891, that the Agents of the Treasury Department had been instructed by order of the President to stop the killing when 7,500 seals had been taken, and that the Government of the United States had taken every precaution to insure the observation of the stipulation to limit the catch to 7,500.

At St. Paul we were informed that the Treasury Agent had been instructed on the

27th May to keep the quota of skins taken by the Company under 7,500, and that *en route* to the islands he was advised by telegraph to interpret his instructions in accordance with the United States' Proclamation. He arrived at the Pribyloff Islands on the 10th June, but the said Proclamation did not reach the islands until the 2nd July. In the meantime, we find that when the quota of 7,500 seals had been killed (by the 20th June), all killing for the Company was stopped.

The Treasury Agent explained to us that he had much difficulty in interpreting the Proclamation when it arrived, as he received no supplementary instructions with it. After full consideration he decided to permit killing "for food" to continue apparently on the assumption that the limit of catch to 7,500 was to commence from the date of signing the *modus vivendi*, that is on the 15th June.

We have been informed that already 1,400 seals have been killed in excess of the above number as "food seals," and that on the same assumption it is contemplated that perhaps 2,000 more will be killed this season.

The agent has given orders that no killing shall take place during the coming "stagey" season (which lasts from the beginning of August until the end of October), the skins being then of little value, but he has explained that the killing would be again resumed after that interval.

We may add that the skins killed for food become the property of the Lessee Company, and that therefore the total number of seals to be killed and placed to the credit of the Company during this season would exceed by 3,000, the 7,500 contemplated under the *modus vivendi*.

We may observe that the market value of 7,500 skins would probably reach a total of 30,000*l*. The Lessee Company are bound to provide dwellings, church, school accommodation, and 10 tons of coal for the natives, and to support the widows and orphans and the aged and infirm, but they are under no legal obligation to furnish food for the inhabitants generally. We learned, however, that they have made every preparation to provide the necessary food, and that the whole expenditure on all counts until next spring would not exceed 5,000*l*.

We examined the stores on the two islands and found ample supplies for all demands of the coming winter. Whether the ultimate charge of feeding the natives will fall on the Government of the United States or on the Lessee Company, it is equally certain that in addition to the flesh of 7,500 seals, the value of their skins will far more than repay any expenditure incurred in default of the wages earned when the full quota of seals is killed.

We feel it to be our duty, in view of the submission of the whole question to arbitration, to take the speediest means of drawing your Lordship's attention to the manner in which we have found that clause 2 of the *modus vivendi* is being dealt with on the Pribyloff Islands, in order that, if necessary, the promptest steps may be taken to draw the attention of the authorities at Washington to the matter.

We may add that as our means of communication are very uncertain, we have inclosed a copy of the telegram, as quoted above, in a despatch to the Governor-General of Canada, with a request that he will be good enough to inquire by telegraph whether it has duly reached your Lordship, and in the event of its not having done so, that he will transmit it in cypher through the Secretary of State for the Colonies.

We have, &c.

(Signed)

GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

Inclosure in No. 129.

Behring's Sea Commissioners to Major Williams.

Dear Sir,

Steam-ship "Danube," at St. Paul, July 30, 1891.

WITH reference to our conversation of the 28th instant, relative to the limitation of the number of seals to be killed under the agreement come to by the Governments of the United States and Great Britain, we think you may be glad to receive this expression of our opinion, based upon the information in our possession, that the intention of the two Governments as conveyed by Article 2 of the *modus vivendi* was, that on the part of the United States the stipulation would be strictly observed to limit the catch this season to 7,500 seals, and to stop the killing when that number had been taken.

As you were good enough to invite our opinion on the above subject, we venture to

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place it in your hands, although the question is apart from the immediate scope of our inquiry.

We remain, &c.
(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

No. 130.

Behring's Sea Commissioners to the Marquis of Salisbury.—(Received September 8.)

Steam-ship "Danube," at St. Paul Island, Alaska,
August 6, 1891.

My Lord,

IN continuation of our despatch of the 16th July, we have the honour to report that after a passage of seven and a-half days from Victoria we reached Kiuluik Harbour, Oonalaska Island, on the 24th ultimo. There we gathered information from various residents, and arranged future plans with the Senior Naval Officer in Behring's Sea, Captain Turner, R.N., of Her Majesty's ship "Nymph."

As we were leaving for the Pribyloff Islands, the United States' surveying-vessel "Albatross" arrived at Oonalaska, having on board Professor Mendenhall and Dr. Merriam; we therefore delayed our departure for a few hours in order to make their acquaintance. We then proceeded direct to the Pribyloff Islands, being accompanied by Mr. Tingle, Superintendent of the North American Commercial Company, whom we met at Oonalaska, and to whom we offered a passage to St. Paul Island.

We investigated all the seal rookeries and hauling-grounds on the island, and obtained a large mass of evidence from the officers of the United States' Government and of the Company, as well as from the natives, on the subject of seal life.

The "Albatross" arrived at St. Paul on the evening of the 28th July, and in a conference with Professor Mendenhall and Dr. Merriam, we explained to them the terms of our commission; they, however, informed us that, having as yet received no formal commission from their Government, they were unable to enter into any formal discussion with us on the subject of our inquiry, but that they hoped at some future date to meet us for this purpose at Washington or elsewhere, their object in the meantime being to acquire for themselves such local knowledge as would enable them better to understand the large quantity of documentary evidence respecting seal life in the possession of the United States' Government.

On the 31st July we left for St. George Island, taking with us Dr. Merriam. We examined all the breeding-grounds on that island and obtained much additional information from the Government Agents and employes of the North American Commercial Company there.

After full and careful inquiry into the various questions connected with the habits and treatment of the seals on the Pribyloff Islands, we are this day proceeding to cruise at sea for the purpose of examining the habits of the fur-seals in those parts of Behring's Sea, where we gather from the information we have received that there will be the best opportunities for such observations.

Her Majesty's ship "Pheasant" has been detailed to cruise with us, and we shall thus obtain valuable assistance in our investigations, while at the same time she will have the best opportunities of falling in with any schooners still remaining in Behring's Sea.

We have, &c.
(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

No. 131.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received September 8.)

(Telegraphic.)

Newport, September 8, 1891.

I HAVE the honour, with reference to my despatch of the 28th ultimo on the subject of the compensation clause in the Behring's Sea Arbitration Agreement, to inform your Lordship that I have received a private and unofficial answer from the Acting Secretary of State to the following effect:

[See Mr. Wharton to Sir J. Pouncefote, September 7, 1891, Inclosure in No. 135.]

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Colonial Office to Foreign Office.—(Received September 11.)

Sir,

Downing Street, September 10, 1891.

WITH reference to previous correspondence, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, inclosing copy of a despatch from Sir Julian Pauncefote, together with an approved Minute of his Privy Council, concurring in a Report by the Minister of Marine and Fisheries on the subject of certain Reports and papers relating to the conditions of seal life in the Pribyloff Islands.

I am, &c.

(Signed) R. H. MEADE.

Inclosure 1 in No. 132.

Lord Stanley of Preston to Lord Knutsford.

My Lord,

Stanley House, New Richmond, P.Q., August 18, 1891.

I CAUSED to be referred, for the consideration of my Government, a copy of a despatch from Her Majesty's Minister at Washington, covering copies of Reports of the United States' Government Agents stationed on the Pribyloff Islands, which were laid before Congress in February last; also an extract from the "Cleveland News and Herald" of the 4th May, 1891, containing the introduction to Professor Elliot's voluminous Report on the condition of seal life in the Pribyloff Islands during the summer of 1890, which did not accompany those presented to Congress; and I have now the honour to transmit to your Lordship a copy of an approved Minute of the Privy Council concurring in a Report appended thereto by the Minister of Marine and Fisheries on the subject.

I have also the honour to inclose a copy of the above despatch from Sir Julian Pauncefote; and for the inclosures I would refer your Lordship to the British print, "United States No. 2 (1891):" "Further Correspondence respecting the Behring's Sea Seal Fisheries," p. 12, Appendix, Inclosure in No. 1; also p. 53, Inclosure 2.

I have, &c.

(Signed) STANLEY OF PRESTON.

Inclosure 2 in No. 132.

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council on the 3rd August, 1891.

THE Committee of the Privy Council have had under consideration a despatch, dated the 22nd May, 1891, from Her Majesty's Minister at Washington, covering copies of Reports of the United States' Government Agents stationed in the Pribyloff Islands, which were laid before Congress in February last; also an extract from the "Cleveland News and Herald" of the 4th May, 1891, containing the introduction to Professor Elliot's voluminous Report on the condition of seal life on the Pribyloff Islands during the summer of 1890, which did not accompany those presented to Congress.

The Minister of Marine and Fisheries, to whom the despatch was referred, submits the annexed Report, dated the 25th July, 1891, upon the subject under consideration.

The Committee concur therein, and on the recommendation of the Minister of Marine and Fisheries advise that your Excellency be moved to forward a copy of this Minute to the Right Honourable the Secretary of State for the Colonies, for the information of Her Majesty's Government.

All which is respectfully submitted for your Excellency's approval.

(Signed)

JOHN J. MCGEE,

Clerk of the Privy Council.

Inclosure 3 in No. 132.

Report.

To his Excellency the Governor-General in Council.

THE Undersigned has had referred to him a despatch from Her Majesty's Minister at Washington, dated the 22nd May, 1891, covering copies of Reports of the United States' Government Agents stationed on the Pribyloff Islands, which were laid before Congress in February last; also an extract from the "Cleveland News and Herald" of the 4th May, 1891, containing the introduction to Professor Elliot's voluminous Report on the condition of seal life on the Pribyloff Islands during the summer of 1890, which did not accompany those presented to Congress.

It will be remembered that on the 27th May last the Undersigned had the honour of reporting to your Excellency upon the statement of Special Agent Goff and his assistants, in which he at some length reviewed the statements therein contained. This Report was approved by your Excellency on the 6th June, 1891, and the Undersigned would now invite attention thereto.

He had at that time occasion to regret that the *ex parte* Report of Mr. Henry W. Elliot, to which reference had frequently been made, had been withheld from publication, and not communicated to the Canadian Government.

The newspaper extract now referred to the Undersigned, however, contains a lengthy introduction to this Report of Mr. Elliot, apparently embracing the principal features dealt with in detail in the body of his Report.

This article is prefaced by the statement that Mr. Blaine is, through this Report, in possession of information not previously at his disposal, which, it is argued, cannot fail to impress upon all concerned the necessity for immediately preventing the killing of seals in the open waters of Behring's Sea; but it is to be noticed that the preponderance of the evidence referred to in the Report is entirely opposed to that particular view. It is submitted that the Report really aims at the operations on the breeding islands by the lessees of the United States' Government.

Mr. Elliot says:—

"I embarked upon this mission with only a faint apprehension of viewing anything more than a decided diminution of the Pribyloff rookeries, caused by pelagic sealing during the last five or six years, but from the moment of my landing at St. Paul's Island on the 21st of last May, until the close of the breeding season, those famous 'rookeries' and 'hauling-grounds' of the fur-seals thereon, and of the St. George Island, too, began to declare, and have declared, to my astonished senses the fact that their utter ruin and extermination is only a question of a few short years from date, unless prompt and thorough measures of relief and protection are at once ordered on sea and on land by the Treasury Department and enforced by it."

He enters into a lengthy explanation of the reasons for the discrepancy between his present statement and the views expressed by him with regard to the inexhaustible supply of seals upon the rookeries during the term of 1872-74, when he was "firmly satisfied that, as matters were then conducted," there was no reason to fear injury to the regular annual supply of male life necessary to the perpetuation of the rookeries.

He gives as reasons for his complete change of opinion, and for now finding "only a scant tenth of the number of young male seals which I [he] saw there in 1872," the following:—

"1. From over-driving without heeding, its warning first begun in 1879, dropped then until 1882, then suddenly renewed again with increased energy from year to year until the end is abruptly reached, this season of 1890.

"2. From the shooting of fur-seals (chiefly females) in the open waters of the North Pacific Ocean and Behring's Sea, began a business in 1886, and continued to date."

It will be observed that this second reason is given for the decrease principally of young males, while further on in the same Report, and throughout the whole controversy, pelagic sealing is and has been held to be particularly destructive to females.

Unlike all previous Reports of United States' Treasury Agents, this takes the initiative in ascribing the alleged enormous decrease of seal life on the rookeries primarily to the lessees of the breeding-islands; but, like all others, it reiterates the oft-refuted statement that the shooting of fur-seals (chiefly females) in the open waters of Behring's Sea and the North Pacific Ocean is responsible, though secondarily, for the alleged diminution of seals on the breeding-grounds.

It is worthy of notice that this appears to be the first occasion upon which United States' Special Agents have attributed the falling-off to the operations of sealers in the North Pacific Ocean outside Behring's Sea; and to this, no doubt, is due the extension of the ground recently proposed by Mr. Blaine to be covered by the arbitration.

It will not be forgotten that the Undersigned, when refuting the statements as to the killing of females in Behring's Sea (the only waters under dispute), has frequently shown that it might be true that the pursuit of seals along the coast and outside Behring's Sea was destructive by reason of the killing of females with pup, during their slow movements before they enter that sea, but that, after entering, the females made a swift passage to the rookeries in a bee-line, and the danger no longer existed.

The question in dispute is not as to the destruction of seal life outside Behring's Sea, but the right of the United States to monopolize the seals in Behring's Sea to the extent of excluding other nations from their pursuit in those waters. The authorized Agents of that Government have, in the past, either failed in their duty, or were unable to appreciate the significance of the gradual and certain decline of the seals dwelt upon by Mr. Elliot; for he now reports that not until 1889 has there been the slightest intimation in the annual declarations of the officers of the Government of the least diminution or decrease of seal life on these islands since his work of 1874 was given to the world.

He discredits the statements of these Agents as irreconcilable with the evidence of the decrease in the supply of young male seals.

The Undersigned calls attention to the striking fact that the serious decrease now alleged has occurred, it is stated, principally in the case of young males, while the United States' Agents still persist in blaming pelagic sealing for its alleged disastrous results to females.

This position would appear to be as difficult of reconciliation as the statements of the other Agents are thought by Mr. Elliot to be.

A glance at his figures, which he states are so carefully and accurately compiled, discloses the fact that the percentage of the decrease in females is $62\frac{1}{2}$, while that in young seal pups is over 75.

Mr. Elliot proceeds: "Naturally enough, being so long away from the field, on reading Mr. Charles J. Goff's Report for the season's work of 1889, I at once jumped to the conclusion that the pelagic sealing, the poaching, of 1886-88 was the sole cause of the shrinkage which he declared manifest on those rookeries and hauling-grounds of the Pribyloff Islands. . . . And he goes on to say that even then, after calculating the number of skins placed on the market by pelagic sealers, he could not satisfactorily charge the whole decrease to them. He states that the class from which 85 per cent. of the pelagic catch is drawn are "females and young-born and unborn;" and while he expected this to work damage to the rookeries, he was wholly unprepared for an establishment of the correctness of Mr. Goff's Report.

"After an entire new and topographical survey and triangulation of the landed area of the seven rookeries of St. Paul Island and those of St. George Island," Mr. Elliot is impressed with the bad effect of "driving" the seals for years, which practice, in his opinion, renders them unfit for service on the breeding-rookeries, "being utterly demoralized in spirit and body," and this is now admittedly the principal cause of the reported decrease in seal life.

According to Mr. Elliot, pelagic sealing, or "poaching," as he terms it, commenced in 1886. It continued under the harassing and embarrassing interference of the United States' authorities down to and including the year 1889—just four years. He describes the rookeries to have been "in splendid condition," . . . when "they passed into the hands of the United States." Now, after twenty-two years of killing operations on the islands, he suddenly discovers reasons to fear extermination of the seal species, and attributes the falling-off in a great degree to four years of pelagic sealing, beginning in 1886; in the face of this statement, in the same Report, that "that day in 1879 when it became necessary to send a sealing gang from St. Paul village over to Zapodnie to regularly drive from that hitherto untouched reserve, was the day that danger first appeared in tangible form since 1870—since 1857 for that matter." That is to say, seven years before much-abused pelagic sealing, according to Mr. Elliot, had begun.

Thus, in the opinion of the Undersigned, in the light of this and similar Reports, are his repeatedly expressed views vindicated, as also is the fact established that the protection to seal life on the islands, provided by the United States' Government, is and has been wholly inadequate.

The Reports, however, reveal another fact entirely opposed to the contentions of the United States' authorities and Agents, and of Professor Elliot himself. This fact is, that

the whole system of conducting the sealing industry, on the only places where it has been held seals could be protected, has been conceived and based upon lamentably erroneous ideas.

The state of affairs thus recorded affords a fitting commentary upon a system of protection which will admit of the constant interference, dealing torture and death to these animals in a wild state, on grounds chosen by them for annually performing their functions of procreation. It is opposed to the first instinct of all animal nature—that of self-preservation—and is admirably adapted to driving the seals from the breeding-rookeries to seek other haunts.

While the Undersigned does not consider it necessary in this connection to refer to the question of right raised by the term "poacher," as applied by Mr. Elliot to pelagic sealers, this question being one affecting an entirely distinct feature in the controversy in no way connected with the question of the preservation of seal life, he desires in passing to briefly state the following:—

It has been clearly established that no attempt has ever been made by any of the Canadian sealing fleet to operate within the territorial waters of the United States. The unwarranted interference by United States' revenue-cutters has in every case been out in the open waters of the sea, free to them and to the subjects and citizens of all other nations.

In his Report Mr. Elliot dwells at considerable length upon the history of the sealing industry of the Pribyloff Islands under the Russian rule previous to the acquisition of these islands by the Government of the United States. He argues that to the fact that in these earlier days the skins were air-dried (not salted as now) is due the fact that the seals were not years ago exterminated, the work of sealing being then far slower and much more difficult than now.

In his opinion the inability to rapidly cure the skins for shipment alone saved the Pribyloff rookeries from utter extermination, as at least thirteen trading organizations were engaged on these islands continuously for seventeen years in taking the fur-seal skins; and he believes, had they possessed the knowledge of salt curing now in vogue, they would have killed every fur-seal which showed itself. Yet farther on he quotes from Bishop Veniaminov, that, in 1803, 800,000 seal-skins had accumulated, of which 700,000, having spoiled, had to be cut or thrown into the sea. Thus on one occasion enough skins were destroyed to cover seven years of the total take of the former American lessees, or nearly twelve years' take of the present Company, under the terms of their lease, adopting the basis of 60,000 skins per annum.

The system, or even want of system, which permitted such drains as this upon the seal life of these islands by so many Companies must have been less hurtful to seal life than the organized methods pursued under the supervision of the United States' Government; for though the earlier sealers did not know how to preserve the skins when they got them, the present lessees, it is alleged, cannot get them to preserve, though only one organization has been engaged for twenty-two years, as against thirteen organizations indiscriminately working for seventeen years; and the one organization began operations with the rookeries admittedly in "splendid condition," and considered by Mr. Elliot to be practically inexhaustible.

This opinion of Mr. Elliot might have been correct in the main, but it is evident some other and more provident method of reaping the seal harvest on the islands must be devised if the stock is to be perpetuated.

The Undersigned sees no reason to reverse his opinion as to the relative effect upon the rookeries of hunting seals in the open waters of Behring's Sea, nor can he conceive it possible that such method of sealing could materially assist in bringing about the disastrous results now alleged. In his opinion it could have no more effect upon the permanency of the sealing industry than would the legitimate pursuit of any other business in like manner.

Mr. Elliot concludes by stating that, after a careful review of his investigations, he is warranted in urging—

"1. That no driving and killing of fur-seals for tax and shipment on the seal islands of Alaska be permitted by the Government for a period of at least seven years from date (1890); and

"2. That the co-operation of Great Britain and Russia be secured in perfecting our international close time, by which all killing of fur-seals in the open waters of Behring's Sea will be prohibited during the breeding season of these animals, and in order that the Representatives of Great Britain and Russia may see the truth of my statement as to what threatens to exterminate these animals if pelagic sealing as well as terrestrial sealing is not at once stopped, that a Commission of British, Russian, and American

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experts be invited to visit the seal islands next summer, and report fairly upon the subject."

The first of these propositions, which does not affect the Canadian sealers, the Undersigned considers calls for no further reference beyond the remark (even in the light of Mr. Elliot's Report) that it is somewhat remarkable that only at this late date, after over twenty years of annual operations under Government supervision, that the United States' Government is possessed of information upon which it bases the necessity for such a drastic measure.

On the second proposition the Undersigned remarks that the recent negotiations, resulting in the present *modus vivendi*, and the departure of the British and Canadian experts for the seal islands to report upon the conditions of seal life, dispose for the time being of the main feature contained therein.

Before leaving the subject, however, the Undersigned desires to invite the attention of your Excellency to the words, "*in perfecting our international close time*, by which all killing of fur-seals in the open waters of Behring's Sea will be prohibited during the breeding season of these animals," contained in the second proposition.

The words italicized by the Undersigned appear to imply the existence of an international close time for seals in the open waters of Behring's Sea, which it is proposed to perfect. This is misleading, as no such close time exists, and the only Regulations pertaining to the seal fishery of Behring's Sea are provided by enactment of the United States' Congress, and applicable to the citizens of that nation alone.

With regard to the remainder of the quotation, the Undersigned observes that this question is included in the subject of the inquiry now proceeding. The Undersigned, however, would again revert to the proposal forwarded by Sir Julian Pauncefote to Mr. Secretary Blaine, 13th April, 1890, which provided for just and equitable close times for seals in Behring's Sea, covering the migrations to and from the breeding-grounds; and which was rejected by the United States' Government.

A close season based upon the wording of the present proposition, "during the breeding season," might, by a strained or technical interpretation of what length of time the breeding season covered, be made practically exclusive by fixing the dates to cover the whole term, beginning with the first entrance into Behring's Sea, and ending with the departure of the seals from that sea.

This would be simply an assertion of the doctrine of *mare clausum* in another form.

The Undersigned therefore desires to impress upon your Excellency this aspect of the matter, with a view to avoiding, in any close season which might ultimately be agreed upon, a practical or actual surrender of participation in the sealing industry by Her Majesty's subjects; and establishing the fact that the carefully considered proposal already rejected by the United States contained the full measure of close time that your Excellency's advisers are at present prepared to entertain in the interest of Canadian sealers.

He therefore recommends that a copy of this Report be transmitted to the Right Honourable the Principal Secretary of State for the Colonies, for the information of Her Majesty's Government.

Respectfully submitted,
(Signed) CHARLES H. TUPPER,
Minister of Marine and Fisheries.

Department of Fisheries, Canada, Ottawa, July 25, 1891.

Inclosure 4 in No. 132.

Sir J. Pauncefote to Lord Stanley of Preston.

My Lord,

Washington, May 22, 1891.

IN accordance with instructions which I received last night by telegraph from the Marquis of Salisbury, I have the honour to transmit herewith to your Excellency an extract from the "Cleveland News and Herald" of the 4th instant, containing Professor Elliot's introduction to his Report on the condition of seal life at the Pribyloff Islands during the summer of 1890. His Report, which I am informed is very voluminous, was not included among those of the other Government Agents which were laid before Congress in February last. I take this opportunity of transmitting, at the same time, copies of the last-mentioned Reports, in case they should not be in the possession of your Government.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

No. 133.

The Marquis of Salisbury to Behring's Sea Commissioners.

Gentlemen.

Foreign Office, September 12, 1891.

IN reply to your despatch of the 5th ultimo, I have to state to you that Her Majesty's Government approve your note to the United States' Agent at St. Paul Island respecting the limitation of the number of seals to be killed under the agreement come to by the Governments of Great Britain and the United States.

Your further proceedings, reported in the above-mentioned despatch, are also approved.

I am, &c.

(Signed) SALISBURY.

No. 134.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received September 14.)

My Lord,

Newport, September 4, 1891.

I HAVE the honour to inform your Lordship that I addressed a note on the 26th ultimo to the United States' Government in the sense of your Lordship's telegram of the 26th ultimo,* complaining of the violation of the Agreement of the 15th June, 1891, with regard to the killing of seals by the United States' Agent in the seal islands, and expressing the conviction of Her Majesty's Government that the President will not countenance any evasion of the true spirit of the Agreement, and will take the necessary measures to insure its strict observance.

I have now received a note from the Acting Secretary of State, in reply, in which he informs me that my statement will receive the immediate attention of his Government.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 135.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received September 21.)

My Lord,

Newport, September 10, 1891.

WITH reference to my despatch of the 28th ultimo, transmitting copy of the private and unofficial letter which I addressed to the Acting Secretary of State on the subject of the compensation clause of the Behring's Sea Arbitration Agreement, I have now the honour to inclose a copy of the reply which I received from Mr. Wharton to that communication, and the substance of which I reported to your Lordship in my telegram of the 8th instant.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure in No. 135.

Mr. Wharton to Sir J. Pauncefote.

(Private and Unofficial.)

My dear Sir Julian,

Department of State, Washington, September 7, 1891.

YOUR private and unofficial note of the 26th August was duly received, and I desire now to reply to it in the same private and unofficial manner. The President is unable to see how the damage clause last proposed by him can be held to imply an admission on the part of Great Britain "of a doctrine respecting the liability of Governments for the acts of their nationals or other persons sailing under their flag on the high seas, which is not warranted by international law." The proposition was expressly framed so as to submit to the Arbitrator the question of the liability of Great Britain for the acts of vessels sailing under its flag. It did not assume a liability, but was framed expressly to avoid this objection, which had been urged against the previous proposal. I quote from my note of the 23rd July:—

* See No. 125.

"The United States might well insist that Her Majesty's Government should admit responsibility for the acts of the Canadian sealers which it has so directly encouraged and promoted, precisely as in the proposal the United States admits responsibility for the acts of the revenue-vessels. But, with a view to remove what seems to be the last point of difference in a discussion which has been very much protracted, the President is willing to modify his proposal, and directs me to offer the following"

The claim of the United States was stated in my note of the 23rd July accompanying the proposal, and the President does not see how the claims of the respective Governments could be more fairly or fully submitted. This Government proposes to submit to the Arbitrators the question whether Great Britain is liable for the injury done to the seal fisheries, the property of the United States, by the Canadian vessels that have, under the stimulation and support of the British Government, been for several years engaged in the Behring's Sea. The proposal of this Government was that the Arbitrators should consider and decide such claims in accordance with justice and equity and the respective rights of the High Contracting Parties.

The President is unable to accept the last suggestion which you make in your note, as it seems to him to be entirely ineffectual. The facts connected with the seizure of Canadian sealers by the revenue-vessels of the United States on the one hand, and with the invasion of the sea and the taking of seals by the Canadian sealers on the other, are well known, and doubtless could be agreed upon by the respective Governments without difficulty. It is over the question of liability to respond in damages for these acts that the controversy exists, and the President can see no other course for this Government than to insist upon the submission of the question of the liability of Great Britain for the acts it complains of to Arbitrators. This Government does not insist that Great Britain shall admit any liability for the acts complained of, but it may well insist, if this arbitration is to result in any effectual settlement of the differences between the two Governments, that the question of Great Britain's liability shall go to the Arbitrators for decision.

If you have any suggestions to make in support of the objection that the proposal made by the President assumes a liability on the part of Great Britain, the President will be very glad to receive them and, if necessary, to reconsider the phraseology; but upon a careful and critical examination of the proposition he is unable to see that the objection now made has any support in the terms of the proposal.

I have, &c.

(Signed) WILLIAM F. WHARTON.

No. 136.

Sir G. Baden-Powell to the Marquis of Salisbury.—(Received October 9.)

(Telegraphic.)

Victoria, October 8, 1891.

COMMISSION to-day returned Esquimalt. Await instructions in Victoria.

No. 137.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received October 12.)

(Telegraphic.)

Washington, October 12, 1891.

THE United States' Government urgently press for a reply to their note of 23rd July. Shall I send official reply in the sense of my private letter of 26th August to Mr. Wharton?

The middle course therein proposed, which I presume is acceptable to Canada, might yet be accepted by the President, in order to arrive at a settlement.

No. 138.

The Marquis of Salisbury to Sir J. Pauncefote.

(Telegraphic.)

Foreign Office, October 15, 1891.

IN accordance with the suggestion in your telegram of the 12th instant, you are authorized to repeat officially to the United States' Government the proposal made

in your private letter of the 26th August to Mr. Wharton respecting the Behring's Sea arbitration.

No. 139.

Colonial Office to Foreign Office.—(Received October 17.)

Sir,

Downing Street, October 16, 1891.

WITH reference to your letter of the 15th July, respecting the objections of the British Columbia Sealers' Association to the passing of the "Seal Fishery (Behring's Sea) Act, 1891," I am directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, a copy of a despatch and its inclosures from the Governor-General of Canada on the subject.

I am, &c.
(Signed) EDWARD WINGFIELD.

Inclosure 1 in No. 139.

Lord Stanley of Preston to Lord Knutsford.

My Lord,

Government House, Ottawa, October 1, 1891.

WITH reference to your Lordship's despatch of the 16th July last relative to the objections entertained by the British Columbia Sealers' Association to the legislation proposed by Her Majesty's Government with the object of establishing a close season for seal in Behring's Sea, I have the honour to forward to your Lordship herewith copy of an approved Minute of the Privy Council, to which is appended copy of a letter addressed to the Sealers' Association by the Minister of Marine and Fisheries in the sense of your Lordship's despatch above referred to.

I have, &c.
(Signed) STANLEY OF PRESTON.

Inclosure 2 in No. 139.

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council on the 21st September, 1891.

THE Committee of the Privy Council have had before them a despatch dated the 16th July, 1891, from the Right Honourable the Secretary of State for the Colonies acknowledging the receipt of a Minute of the Canadian Privy Council inclosing copy of a letter from the British Columbia Sealers' Association.

The Minister of Marine and Fisheries to whom the matter was referred, now states that a reply has been forwarded by him to the Association in the sense indicated (a copy thereof is appended hereto).

The Committee, on the recommendation of the Minister of Marine and Fisheries, advise that your Excellency be moved to forward a copy hereof to the Principal Secretary of State for the Colonies for the information of Her Majesty's Government.

All of which is respectfully submitted.

(Signed) JOHN J. MCGEE,
Clerk of the Privy Council.

Inclosure 3 in No. 139.

Mr. Tupper to Sealers' Association.

Gentlemen,

Ottawa, September 10, 1891.

REVERTING to my letter to you of the 13th June on the subject of your communication of the 5th of that month, on behalf of the Sealers' Association of Victoria, remonstrating against the proposed *modus vivendi* in Behring's Sea, I have now the honour to inform you that Her Majesty's Government is of opinion that the total cessation of sealing in Behring's Sea will greatly enhance the value of the produce of

the coast fishery, and does not anticipate that British sealers will suffer to any great extent by exclusion from Behring's Sea.

Her Majesty's Government, however, will be prepared to consider any case in which it is clearly established that direct loss has been suffered by a British subject through the enforcement of the prohibition against sealing in Behring's Sea.

With reference to the wish of the Association that it should be heard before the Arbitration Commission, the Secretary of State for the Colonies intimates that, as the Joint Commission of Experts has been appointed to examine all questions connected with seal life, and the fur-seal industry, for submission to the Arbitrators, you should lay any statements you desire to make before the Commission of Experts in the first instance, and that, in the event of its being found necessary to call evidence before the Arbitrators, in addition to that which may be presented to the Commission of Experts, Her Majesty's Government will not fail to bear the wishes of the Association in mind.

I have, &c.

(Signed) CHARLES H. TUPPER.

No. 140.

The Behring's Sea Commissioners to the Marquis of Salisbury.—(Received October 19.)

My Lord,

"Danube," at Ounalaska, September 17, 1891.

FOR the purpose of our inquiry into the conditions of seal life in Behring's Sea and other parts of the North Pacific Ocean, we deemed it advisable to visit the Russian seal islands, and we were pleased to receive at Ounalaska on the 21st August a telegram from your Lordship informing us of the receipt of a note from the Russian Government authorizing us to visit their seal fisheries, and stating that the Governor-General at Amoor had been requested to afford us every facility.

2. We accordingly visited the Commander Islands, arriving off Behring's Island on the 1st September.

3. The Administrator, M. Grebnitzky, had not heard of us from the Amoor, but on learning of our mission, showed us every courtesy and hospitality, and from his own ample experience and observations gave us most valuable information as to the conditions of seal life in Russian waters. On Copper Island, the Government Superintendent, M. Tillmann, acting on instructions from M. Grebnitzky, gave us full information, and accompanied us to the rookeries, extending to us the most friendly courtesy.

4. We then proceeded to Petropaulowski, and there from the Commandant, M. Homyakoff, and Captain Brandt, of the Russian Imperial steam-ship "Alcut," we again received much courtesy and assistance in our inquiries.

5. We venture to hope that the Russian Government will be informed of the extremely satisfactory character of our visit to the Russian sealing-grounds, and we would take this occasion of expressing our opinion of the great value to the elucidation of the conditions of seal life, of the information and opportunities for observation which we were afforded by the Russian authorities on the Commander Islands and in Kamschatka.

6. We inclose herewith, for your Lordship's information, copies of the letters which we addressed to the Administrator of the Commander Islands and the Commandant at Petropaulowski, expressing our sense of the valuable facilities they have afforded us.

We have, &c.

(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

Inclosure 1 in No. 140.

The Behring's Sea Commissioners to the Administrator of the Commander Islands.

Sir,

"Danube," at Behring's Island, September 2, 1891.

HAVING been appointed Her Britannic Majesty's Commissioner to hold an inquiry into the conditions of seal life in Behring's Sea and other parts of the North Pacific Ocean, with a view to the arbitration pending on the subject between the Governments of the United States and Great Britain, we considered it to be of much importance to the success of our mission that we should obtain full information concerning the facts of seal life and the methods of killing adopted on the Commander Islands.

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N 2

We received a confirmatory telegram from the Secretary of State for Foreign Affairs in England, stating that the Russian Government had been good enough to authorize us to visit their seal fisheries, and that the Governor-General at the Amoor had been requested to afford us every facility in the prosecution of our inquiries.

Not having time to communicate with the Governor-General at the Amoor, we ventured to come to Behring's Island, and we have had the good fortune to meet with you, and now would beg to tender this expression of our best thanks for the courtesy with which you have received us and for the valuable and full information which your long experience and accurate knowledge of all connected with sealing enabled you to afford us.

We have, &c.

(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

Inclosure 2 in No. 140.

The Behring's Sea Commissioners to Mr Homyakoff.

Sir,

"Danube," at Petropaulowski, September 9, 1891.

WE have the honour, before we leave Petropaulowski, to convey to you our thanks for the courtesy with which you have received us during our visit to your command, and for the information which you have so freely placed at our disposal.

Having been appointed Her Britannic Majesty's Commissioners to investigate the conditions of seal life in the North Pacific Ocean, with a view to the preservation of the fur-seal, we deemed it specially advisable to obtain full information concerning the Russian seal islands.

We received a telegraphic despatch from the Secretary of State for Foreign Affairs in England stating that the Russian Government had been good enough to authorize us to visit their seal fisheries, and that the Governor-General at the Amoor had been requested to afford us every facility in the prosecution of our inquiries.

As the limited time at our disposal did not admit of our communicating with the Governor-General at the Amoor, we would beg you to be good enough to inform his Excellency of our visit here, and to convey to him our high appreciation of the manner in which you have received us.

We have, &c.

(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

No. 141.

The Behring's Sea Commissioners to the Marquis of Salisbury.—(Received October 19.)

My Lord,

"Danube," at Ounalaska, September 17, 1891.

IN continuation of our despatch of the 6th August last, we have the honour to report that since that date our proceedings have been as follows:—

2. Our first cruise was to the eastward and northward, with a view to observing the facts of seal life in those directions, and acquiring trustworthy information as to the northern limit of the fur-seal.

3. We visited the native and other settlements on Nunivak Island, Cape Vancouver, St. Matthew Island, St. Lawrence Island, and Plover Bay. On our voyage northwards, and on our return journey to the Pribyloff Islands from a north-westerly direction, we carefully recorded all seals seen at sea. On this cruise we received valuable assistance from Lieutenant-Commander Hadley in Her Majesty's ship "Pheasant."

4. On reaching St. Paul Island on the 19th August we again examined some of the rookeries to note the difference in their appearance after a fortnight's interval, and then, proceeding to Plimlink Harbour, Ounalaska, to consult with the commanding officers of the English and United States' war-ships as to future movements, we left that port on the 24th August for the westward, calling at the Islands of Atka and Attou, on which are the only remaining native settlements of the western part of the Aleutian chain.

5. Our ultimate object being to visit the Russian seal islands, Her Majesty's ship "Porpoise" was detailed to accompany us, she being on her way back to the China Station.

6. The "Porpoise," under the command of Captain J. Leslie Burr, from whom we

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received every assistance and attention, keeping a more northerly course to look for seals and schooners, joined us at Attoo on the 29th August.

7. We proceeded to the Commander Islands and to Petropaulowski, and on this portion of our cruise we are addressing a separate despatch to your Lordship.

8. Leaving Petropaulowski on the 10th September, we shaped our course for the Pribyloff Islands, so as to strike them from a westerly direction, keeping an accurate record of all seals observed.

9. Paying our final visit to the rookeries on St. Paul Island after a further interval of twenty-six days, we found that Mr. Stanley Brown, having completed his full observations of seal life on behalf of the American Commissioners, had just left the island.

10. We thus secured the opportunity of making the latest observations of several important points in relation to our inquiry.

We now propose to continue our investigations by the collection, on our return journey to Victoria, of evidence from those engaged in sealing on the coast of British Columbia.

We have, &c.
(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

No. 142.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received October 19.)

(Telegraphic.)

Washington, October 19, 1891.

WITH reference to your Lordship's telegram of the 15th instant, I addressed a note to the Acting Secretary of State on the 17th instant, in the sense of my private letter to him, and officially repeated the proposal made by your Lordship.

I called by request at the State Department to-day, and Mr. Wharton asked me informally to submit two alternative clauses to your Lordship.

A disclaimer is contained in the first clause of any admission of the liability of Great Britain being implied from the terms of the President's clause 7.

The second is a clause to be substituted for the President's clause, and is in the sense of your Lordship's proposal.

The text of the two clauses follows:—

[See Inclosure 1 in Sir J. Pouncefote's despatch of October 23, 1891 :
Inclosure 1 in No. 160, *infra*.]

Will your Lordship authorize me to inform the United States' Government that you accept the second clause, in which case they will at once propose it in answer to my note of the 17th instant?

It will be left to further negotiation to settle the choice of Arbitrators and place of sitting.

No. 143.

Memorandum by Sir G. Baden-Powell on the Limitation of the Number of Fur-seals to be taken on the Pribyloff Islands in 1891.—(Received at the Foreign Office, October 20.)

Limitation exceeded.

BY Agreement between the United States and Great Britain not more than 7,500 seals were to be taken on the Pribyloff Islands in 1891.

2. On visiting the Pribyloff Islands in July and August 1891, the British Commissioners found that since the opening of the season and up to the 4th August about 9,100 seals had been taken, and that it was in contemplation to kill about 2,900 more before the close of the season, making a total for the year of 12,000.

3. The explanation of this excessive killing is to be found in the interpretation placed by the authorities in the seal islands on the terms of the *modus vivendi* of June 1891.

4. The clause (No. 2) of the *modus vivendi* runs thus: "The United States' Government will prohibit seal-killing for the same period" (until May 1892) "in the same part

of Behring's Sea, and on the shores and islands thereof the property of the United States (in excess of 7,500 to be taken on the islands for the subsistence and care of the natives). . . ."

Intention of United States' Government in imposing Limit.

5. The intention of the President of the United States in insisting upon this proviso as to 7,500 is evident in the various statements officially made on behalf of the United States.

6. On the 25th April, 1891, the President instructed Mr. Blaine, the Secretary of State, to inform Sir Julian Pauncefoot: ". . . . Some seals must be killed by the natives for food; . . . the lessees are bound under their lease . . . to feed and care for the natives, . . . and for this service, a very expensive one, . . . the lessees should find their compensation in taking a moderate number of seals."

7. Mr. Blaine, in his letter to Sir Julian Pauncefoot of the 4th May, 1891, correctly explains that under their lease the Company is bound to furnish to the natives—

- (1.) Dried salmon.
- (2.) Salt and barrels for preserving meat.
- (3.) 80 tons of coal.
- (4.) Dwellings in good repair.
- (5.) Schools and teachers.
- (6.) Church.
- (7.) Physicians and medical stores.
- (8.) Necessaries of life for widows and orphans, aged and infirm, who are unable to provide for themselves.

8. Mr. Blaine adds: "The comfort, possibly the safety, of all these human beings is dependent on the Company. . . . If the Company shall . . . be deprived of all privilege of taking seals, they certainly could not be compelled to minister to the wants of these 300 inhabitants for an entire year. If these islands are to be left to charity, the North American Company is under no greater obligation to extend it to them than any other citizens of the United States. It evidently requires a considerable sum of money to furnish the supplies named in the lease. . . . If the lessees are not to be allowed payment in any form for the amount necessary to support these 300 people on the islands, they will naturally decline to expend it. . . . No appropriation of money has been made by Congress for the purpose."

9. Mr. Blaine continues, in conclusion: "In this exigency the President (proposes to) concede to the North American Company the right to take a sufficient number of seals, and no more than sufficient to recompense them for their outlay in taking care of the natives, and that . . . all commercial killing of seals be prohibited pending the result of arbitration. . . . The Secretary of the Treasury . . . after full consideration has limited the number to 7,500 to be killed by the Company to repay them for the outlay demanded for the support of the 300 people on the Pribyloff Islands."

10. On the 6th June, 1891, Mr. Wharton, the Acting Secretary of State, writes to Sir Julian Pauncefoot: "I am directed by the President . . . to inform Lord Salisbury that . . . in order to insure such control pending these negotiations, the Agents of the Treasury Department who have been dispatched to the seal islands have been instructed to stop the killing when 7,500 have been taken, and to await the arrival of further orders; though ordinarily the taking of seals on the islands does not begin until about the 1st July. . . . The President is sure that Lord Salisbury will not question the absolute good faith of this Government in observing its stipulation to limit the catch to 7,500."

11. It is quite evident, therefore, that the total of 7,500 was to include all seals killed for natives' food or for the purposes of the Company, as the skins in both cases would become the property of the Company, and by their sale the Company would recoup itself for the expenditure it was under obligation to make on behalf of the natives, and also for any additional expenditure which it might incur in providing food for the natives during the rest of the autumn and winter. But all commercial killing of seals was to be prohibited. In brief, the limit of 7,500 was to include all seals killed on the islands within the year, the skins thus obtained being considered of sufficient value to provide for all expenses incurred for the subsistence and care of the natives over a period during which the prohibition of the usual killing would deprive the natives of their means of earning a livelihood.

12. It is to be noted that the President and Mr. Blaine had been misinformed as to the actual obligations of the Company under their lease. The Company is not bound

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"to feed the natives," nor is the "safety of the natives dependent on the Company." In reality the State alone is responsible if by an act of State the natives are deprived of their means of livelihood and threatened with starvation.

Government Action on Islands.

13. It is also to be noted that Colonel Murray, the Sub-Agent of the Treasury in charge of the islands, informed the British Commissioners on the 19th August, 1891, at St. Paul Island, that the Company had already made a charitable advance of 2,700 dollars to the natives towards their winter's support, but that he had informed the Company that he was authorized to provide the natives during the rest of the year with everything that they really required, at the Government expense, and that therefore the natives might spend the Company's advance on whatever they pleased. He also explained to the Commissioners that the Treasury was formally committed to such expenditure, and that the money would be provided out of the general vote, which would be passed in the usual course by Congress in the Appropriation Act.

14. Colonel Murray also stated that absolute orders had been made to stop this year all killing of seal pups, which in previous years had provided the natives with 4,000 or 5,000 carcasses for food, and also to stop all killing of "blue" foxes, which had hitherto afforded wages to the natives during the winter.

15. This year there will necessarily be a shorter supply of seal meat, as comparatively few seals have been killed; but there are still many to be killed for winter storage, and there will be no check on the other ordinary local food supplies, viz., sea lion, fish, and birds.

Action of Company on Islands.

16. Both at St. Paul and St. George I examined the stores, and found that the Company, in anticipation of the winter's needs, had ample stocks of provisions, special in some cases, including salt salmon, beef and pork, flour, biscuits, sugar, and tea.

17. In regard to the cost of providing for the natives, Mr. Tingle, the Company's energetic Superintendent, informed me that he was authorized to expend up to 25,000 dollars (5,000*l.*), but that he did not anticipate a much greater expenditure than 16,000 dollars (3,200*l.*) to 18,000 dollars (3,600*l.*) to completely provide for the natives during the coming winter. This estimate gives about 1*s.* per day per man, woman, and child for food and necessities, and is exclusive of housing and fuel, nor does it include such wages as may have been earned already or may yet be earned in seal-killing, house-painting, and other work on which it is contemplated to employ the natives. Mr. Tingle added that if the Company chose to refuse supplies the Government was bound to supply them, but that he had special instructions, if necessary, to provide for all the needs of the natives, and that he was prepared so to do.

Financial Results.

18. In regard to the actual number of seal-skins available to meet this expenditure, I found, after careful examination of the books of the Company and Government, and inquiry of the officials, that the approximate numbers were as follows:—

On stock from last year (1890)	..	..	..	..	..	3,500
Killed before 15th June, 1891	..	..	..	..	..	4,500
Killed between 15th and 20th June	..	..	..	..	..	3,000
Killed between 20th June and 4th August	..	..	..	..	..	1,600
To be killed in autumn	..	..	..	..	..	2,900
Total skins available (1891)	..	..	..	..	..	15,500

The stock brought over from the previous year comprises the skins taken in excess of that year's permitted quota, and is customarily carried to the account of the next year's quota. The estimated number of 4,500 killed before the 15th June, 1891, was made by the Treasury Agent, and would leave 3,000 killed before the 20th June, on which day there is entered in the official Government log the note, "This killing filled the quota of 7,500."

The Treasury Agent informed me that he was permitting a total of 7,500 to be killed after the 15th June, so that there remained 2,900 to be killed in the autumn, seeing that 4,600 had been killed between the 15th June and the commencement of the "stagey" season early in August.

19. The Company will thus have for sale this year not less than 15,000 skins, of a probable value, at 20 dollars the skin, of 300,000 dollars (60,000%), about one-half of which would accrue to the Government for taxes. The expenses on the islands, on behalf of the natives, would not exceed 5,000 dollars (1,000%). The additional expenses of providing food for the natives, which the Government of the United States have undertaken, are estimated not to exceed a total of 20,000 dollars (4,000%).

20. The Government of the United States are presumably entitled to insist that the quota for this year had been fixed at 7,500, with the special objects of defraying certain expenses, and of preventing any killing for purely commercial purposes, and that therefore any skins accruing to the Company in excess of this 7,500 must be stored to the account of next year's quota. Even if this rigid view were taken, the Company would secure a trade revenue of 15,000%, to cover an expenditure of 1,000%, while the Government would receive a tax revenue of 15,000% to cover an expenditure of 4,000%. But if this reservation be not insisted on, the respective revenues would yield net profits to the Company of 29,000%, and to the Government of 26,000%, a result certainly not contemplated by the President.

Action of Treasury Agent on Islands.

21. In regard to the action of the local United States' authorities, I found that Major Williams, the Treasury Agent for the Pribyloff Islands, before leaving San Francisco for the islands, that is before the 27th May, 1891, had been instructed to keep the Company's quota of skins under 7,500 until further orders. Subsequently he was instructed, by telegraph, to "modify his instructions in accordance with the Proclamation." On the 20th June he recorded in the official log that the Company's quota of 7,500 had been reached. He permitted, however, two killings to take place for "food skins" on the 25th and the 29th June, yielding 609 skins, before he received the Proclamation on the 2nd July. The Treasury Agent did not seem to be aware that all accepted food skins are placed to the account of the Company's quota.

On receipt of the Proclamation, Major Williams, having no other instructions, stopped all killing, and, as he told us, thought the matter over for three days, consulting with Captain Cotton, the United States' Senior Naval Officer in Behring's Sea, and others. He came to the conclusion that the limit of catch was to be within the period between the signing of the *modus vivendi* and May 1892. Between the 15th June and the 5th July about 3,600 skins had been taken, and Major Williams decided that 3,900 more skins were to be taken before next May. Up to the beginning of August, when the skins became "stagey" and unmarketable, about 1,000 more skins had been taken, leaving a total of 2,900 skins to be taken in the autumn, after the "stagey" season ends in November.

22. On discussing the matter with Professor Mendenhall and Dr. Merriam, the Behring's Sea Commissioners (designate) of the United States, we found they had talked over matters with the local officials, but had no previous knowledge of the subject or of the correspondence in which the President's intention was expressed. On the 5th August, 1891, Dr. Merriam again opened the subject to me, saying that Colonel Murray had explained that only 6,000 had as yet been killed, adding, "Of course it only means after the date of signing the *modus vivendi*." Professor Mendenhall, chancing to come up at the same time, concurred in Dr. Merriam's view. In reply to my inquiry they did not know that Major Williams had been instructed on the 27th May, on his way to the islands, to stop killing at 7,500; nor that in the official log was the entry on the 20th June, "This filled the quota of 7,500."

23. It would therefore appear that the United States' authorities on the islands had not been in any way specially instructed beyond the clear order given on the 27th May, 1891, long antecedent to the 15th June, to stop killing when 7,500 had been taken—an order obviously in keeping with the agreement come to preliminary to the signing of the *modus vivendi*, that on the President's suggestion the Company should be permitted this year to take 7,500 skins and no more, and these only for a specific purpose.

Summary.

24. Mr. Blaine wrote on the 4th May, 1891: "The President cannot leave these worthy and innocent people to the hazard of starvation, even to secure any form of agreement with Lord Salisbury touching seal life." The President therefore suggests and Lord Salisbury accepts, the proviso that the Company should be allowed, in the word, of the President, "to take a sufficient number of seals, and no more than sufficient, to

recompense the Company for their outlay in taking care of the natives." Major Williams, the particularly able Treasury Agent on the islands, was placed in a position of much complexity and difficulty, and decided to the best of his judgment. Indeed, every one concerned has acted in perfectly good faith. It was entirely due to the meagreness and misunderstanding of instructions that the remarkable results above detailed have been brought about.

In a word, the Company receives skins of a market value of 30,000*l.* to defray expenses not exceeding 1,000*l.* The Government secures a tax revenue of 30,000*l.* to meet expenses not exceeding 4,000*l.*

25. It is a matter for much satisfaction that there are thus secured funds more than ample to provide for "the subsistence and care of the natives." It is a matter for regret that when, with a view to the preservation of seal life, an agreement had been come to to prohibit for this year, so far as possible, the killing of fur-seals, there should have been sanctioned on the Pribyloff Islands the killing of 4,500 seals in excess of the very liberal limit permitted under the Agreement.

The disposal of the excess of skins thus obtained is a matter for the immediate consideration of the Governments concerned.

(Signed)

GEORGE BADEN-POWELL.

August 10, 1891.

No. 144.

The Marquis of Salisbury to Sir J. Pouncefote.

(Telegraphic.)

Foreign Office, October 20, 1891.

I HAVE received your telegram of the 19th instant, containing the text of two alternative clauses suggested by the United States' Government with regard to the submission to arbitration of claims for compensation arising out of the killing of seals in Behring's Sea.

You are authorized to accept the second of the two clauses proposed.

No. 145.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received October 20.)

(Telegraphic.)

Washington, October 20, 1891.

REFERRING to your Lordship's telegram of to-day, I presume that there is no objection to the Joint Commission Article being also signed by me.

No. 146.

The Marquis of Salisbury to Sir J. Pouncefote.

(Telegraphic.)

Foreign Office, October 21, 1891.

YOU are authorized to sign the Article providing for a Joint Commission to investigate the facts relating to seal life in Behring's Sea, as suggested in your telegram of the 20th instant.

No. 147.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received October 22.)

My Lord,

Washington, October 12, 1891.

IN my despatch of the 4th September last I had the honour to report that, in accordance with your Lordship's instructions, I addressed a note to the United States' Government calling their attention to the violation of Article 2 of the Behring's Sea Agreement for a *modus vivendi*, signed on the 15th June last (which limited the killing of seals on the islands until May 1892 to 7,500), and expressing the conviction of Her Majesty's Government that the President would not countenance any evasion of the true spirit of the Agreement, and would take the necessary measures to insure its strict observance.

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I have now the honour to inclose copies of that note, and of the reply of the United States' Government, which I received on the 10th instant. In transmitting these documents I venture to submit to your Lordship the following observations.

No question can reasonably arise as to the meaning of the Agreement as understood by the two Governments. Your Lordship will remember that when Mr. Blaine first proposed a reservation of the right to kill a limited number of seals on the islands for the care and subsistence of the natives, I objected to the suggestion as detracting from the principle of equality which was a feature of the original proposal. Mr. Blaine, in his note to me of the 4th May, 1891 (of which a copy was inclosed in my despatch of the 5th of that month),* dwelt at great length on the various grounds, principally humanitarian, upon which the proposal was based, and concluded as follows:—

"In this exigency the President instructs me to propose to Lord Salisbury that he concede to the North American Company the right to take a sufficient number of seals, and no more than sufficient, to recompense them for their outlay in taking care of the natives, and that, in the phrase of the President, all 'commercial killing of seals be prohibited pending the result of arbitration.'

"The Secretary of the Treasury has a right to fix the number necessary to the end desired. After full consideration, he has limited the number to 7,500 to be killed by the Company to repay them for the outlay demanded for the support of the 300 people on the Pribyloff Islands."

Her Majesty's Government consented to the reservation, on the terms and for the purposes above mentioned, and, in the course of the further negotiations, they pointed out that "it was on the fidelity with which the condition of not killing more than 7,500 seals was observed that the equality of the proposed Agreement depended." They therefore asked for facilities for the supervision by British agents of the proceedings of the Company on the seal islands. To this the Acting Secretary of State, in his note to me of the 6th June, 1891 (of which a copy was inclosed in my despatch of the 9th June), replied as follows:—

"He" (the President) "directs me to ask you to remind Lord Salisbury that the limitation of the killing of seals upon the islands is absolutely within the control of the United States, as a daily count is made by sworn officers, and to inform him that already, in order to insure such control pending these negotiations, the agents of the Treasury Department who have been dispatched to the seal islands have been instructed to stop the killing when 7,500 have been taken, and to await the arrival of further orders; though, ordinarily, the taking of seals on the islands does not begin until about the 1st July. The enforcement of an agreed limitation being so fully in the control of the United States, the President is sure that Lord Salisbury will not question the absolute good faith of this Government in observing its stipulation to limit the catch to 7,500."

The two Governments therefore agreed that, up to May 1892, only 7,500 seals should be killed for the support of the 300 people on the Pribyloff Islands, and that all "commercial killing" (to use the language of Mr. Blaine) should be stopped. It is important to note that the agents of the United States' Treasury Department, who had been dispatched to the seal islands long before the signature of the Agreement, had been instructed as far back as the 27th May "to stop the killing when 7,500 had been taken."

The following are the Articles of the Agreement relating to the restriction on the killing of seals:—

"1. Her Majesty's Government will prohibit, until May next, seal-killing in that part of Behring's Sea lying eastward of the line of demarcation described in Article I of the Treaty of 1867 between the United States and Russia, and will promptly use its best efforts to insure the observance of this prohibition by British subjects and vessels.

"2. The United States' Government will prohibit seal-killing for the same period in the same part of Behring's Sea, and on the shores and islands thereof the property of the United States (in excess of 7,500 to be taken on the islands for the subsistence and care of the natives), and will promptly use its best efforts to insure the observance of this prohibition by United States' citizens and vessels."

It is difficult to understand by what process of reasoning the United States' Treasury Agent at the seal islands can have come to the conclusion that he was authorized under the above Agreement to permit the killing of 12,071 seals.

Sir George Baden-Powell and Dr. Dawson, the British Commissioners sent to Behring's Sea, in a telegram from the Pribyloff Islands dated the 5th August, reported

* See "United States No. 2 (1891)," p. 5.

to your Lordship that this year's catch of seals had already considerably exceeded the number of 7,500, the limit fixed in the Agreement; and, in a despatch of the same date, they stated that at St. Paul they had been informed that the Treasury Agent had been instructed, as far back as the 27th May, to keep the quota of seals taken by the Company under 7,500, and that *en route* to the islands he was advised by telegram to interpret his instructions in accordance with the United States' Proclamation, which embodied the Agreement of the 15th June *verbatim*. This accords entirely with what is stated in the Acting Secretary of State's note to me of the 6th June, which I have quoted above.

The British Behring's Sea Commissioners, in their despatch above referred to, state that the Treasury Agent, Major Williams, arrived at the Pribyloff Islands on the 10th June, and that, on the 20th June, the quota of 7,500 seals having been killed, he stopped all further killing for the Company.

Up to the 20th June, therefore, the Treasury Agent entertained no doubt as to the limit of seals to be killed, and as to his instructions and his duties under the Agreement. It was only when a copy of the President's Proclamation arrived at the islands on the 2nd July that he entertained doubts as to whether he ought not to allow 7,500 seals to be killed from and after the 15th June, the date of the signature of the Agreement, ignoring all the killing of seals which had taken place prior and up to that date. On the 28th July he imparted his doubts to the British Commissioners, who replied, on the 30th, in writing, that, in their opinion, the intention of the two Governments, as conveyed by Article 2 of the *modus vivendi*, was that, on the part of the United States' Government, the stipulation would be strictly observed to limit the catch this season to 7,500 seals, and to stop the killing when that number had been taken. A copy of that letter is inclosed in the despatch of the British Commissioners.

Nevertheless, Major Williams read the Agreement otherwise, although it in no way conflicted with his previous instructions, but, on the contrary, entirely confirmed them.

The consequence of this proceeding on his part is given in detail in the reply of the United States' Government to the complaint of Her Majesty's Government.

The numbers of seals killed are as follows:—

From 1st May to 10th June	1,651
From 11th to 15th June	2,920
From 15th June to 2nd July	4,471
From 2nd July to 10th August	1,796
Permission given to kill in addition	1,233
Total	12,071

The United States' Government do not in terms deny that there has been a violation of the Agreement. They content themselves with transmitting the explanations of the Treasury Agent, and expressing the hope that they will convince Her Majesty's Government that there has been no disposition on his part to violate the stipulations of the Agreement.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

Inclosure 1 in No. 147.

Sir J. Pauncefote to Mr. Blaine.

Sir,

Newport, R.I., August 26, 1891.

IN accordance with instructions which I have received from the Marquis of Salisbury, I have the honour to inform you that the British Behring's Sea Commissioners have reported, in a communication dated from the seal islands on the 5th August, that they find that this year's catch of seals already materially exceeds 7,500, and that the United States' Agent permits the killing of seals to continue, assuming that the limitation agreed upon commences from the date of the signature of the *modus vivendi*.

In bringing this information to your notice, I am at the same time instructed to express the conviction of Her Majesty's Government that the President will not countenance any evasion of the true spirit of the Agreement, and that he will take whatever measures appear to him to be necessary to insure its strict observance.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

Inclosure 2 in No. 147.

Mr. Wharton to Sir J. Pauncefoot.

Sir,

Department of State, Washington, October 10, 1891.

IT is a source of regret that an answer has been so long delayed to your note of the 26th August last, relating to the communication of the British Behring's Sea Commissioners as to the alleged killing of seals on the seal islands in excess of the number fixed by the Agreement of the 15th June last. This delay has been occasioned by the necessary of receiving from the United States' Agent in charge of the islands a full Report on the subject.

The Agent reports that he reached the islands on the 10th day of June last; that from the 1st January to the 1st May, 1891, no seals were killed on the islands; and that from the 1st May to the 10th June, the date of the Agent's arrival, there were killed by the natives for food 1,651 seals. On the morning of the 11th June the Agent gave permission to the lessees to commence killing under the Contract with the Government of the United States, and he states that, from the 11th to the 15th June, 2,920 seals were killed; and that, from the 15th June to the 2nd July, the date of the arrival of the steamer "Corwin," bringing the Proclamation of the President of the United States, containing the notice and text of the *modus vivendi*, there were killed 4,471 seals. From the 2nd July to the 10th August there were killed, for the use of the natives as food, 1,796 seals; and, on leaving the islands, the Agent gave instructions to limit the number to be killed by the natives for food up to the 1st May, 1892, to 1,233.

The instructions of the Secretary of the Treasury to the Agent, received by the steamer "Corwin," were that, if in any way his previous instructions were inconsistent with the President's Proclamation and the Agreement embraced in it, he should be governed by the latter. The Agent reports that, after careful consideration of the text of the Agreement, he decided that the seals killed since the 15th June, the date when that instrument was signed, should be deducted from the 7,500 named in Article 2, thus leaving 3,029 seals to be taken "for the subsistence and care of the natives" from the 2nd July, 1891, to the 1st May, 1892. He says that, in his desire to carry out with absolute correctness the *modus vivendi*, he consulted the two United States' Commissioners, Messrs. Mendenhall and Merriam, the Commanders of the United States' vessels "Mohican," "Thetis," and "Corwin," the United States' Special Agent, and the Special Inspector, and that they all concurred in his interpretation of paragraph 2 of the Agreement: that seals killed prior to the 15th June did not form part of the 7,500 named in the *modus vivendi*. He further says that, in his first meeting with the British Commissioners, Sir George Baden-Powell and Dr. G. M. Dawson, on the 28th July, he submitted the same question to them. Their reply was that it was the understanding of the British Government that only 7,500 seals should be taken during the season, but on examining the text of the Agreement, they admitted that the Agent's interpretation of it was correct. This statement as to the views of the British Commissioners is confirmed by the Report of Professor Mendenhall.

The Agent claims that his action is not only strictly in accord with the language of the Agreement, but with the true intent and spirit of the same, as he understood that intent and spirit in the light of all the facts in his possession. He understood that the object of the Agreement in allowing 7,500 seals to be killed was for the subsistence and care of the natives. The 1,651 seals killed by the natives for food from the 1st May to the 10th June were almost immediately eaten by them, as is their custom after the scanty supply of meat during the winter and spring months, and no part of these seals was salted or preserved for future use. During the killing season by the lessees, under their quota for commercial purposes, the natives are kept very busy, and have no time to prepare meat for future use, and only so much is used for food as is cut off for present use; so that the seals killed between the 10th June, when the season commenced, and the 2nd July, when the notice of the *modus vivendi* was received, were not available for the future subsistence of the natives. As stated, there only remained 3,029 seals to be taken for their subsistence from the 2nd July, 1891, to the 1st May, 1892. The Agent cites the fact that, from the close of the commercial killing season of 1890 on the 20th July, there were killed by the natives for food up to the 31st December, 1890, 6,218 seals, including 3,468 pup seals, the further killing of the latter being now prohibited. It was plain to the Agent that, under the construction which he had placed upon the *modus vivendi*, the supply of meat for the natives during the coming winter would be entirely inadequate, and before his departure from the islands he called upon

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the lessees to bring in a sufficient supply of salt beef to carry the natives through the winter and up to the 1st May, 1892.

The Agent had no means of determining the scope and meaning of the phrase of the British Commissioners as used in your note, "this year's catch," or "the catch of this season," as used in their communication to him dated the 30th July, except by the interpretation to be given to the text of the *modus vivendi*, as contained in paragraphs 1 and 2. The "same period," found in paragraph 2, he understood to refer to the period within which the British Government undertook to prohibit seal-killing in Behring's Sea. The British Commissioners informed the Agent that, as to the British Government, this period did not begin until a reasonable time after the 15th June (the date of signing), sufficient for the naval vessels to reach the sea. The Agent interpreted the paragraphs cited as mutually binding, and he could not assume that it would be claimed that their provisions were to take effect on one date in the interest of the British sealers, and on another in the interest of the United States.

I have thus taken pains to communicate to you in some detail the action of the Agent of the United States on the subject complained of by the British Commissioners, and I hope what has been set forth will convince your Government that there has been no disposition on the part of the Agent to evade or violate the stipulations of the Agreement of the 15th June last.

I have, &c.

(Signed)

WILLIAM F. WHARTON,

Acting Secretary.

No. 148.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received October 22.)

My Lord,

Washington, October 13, 1891.

WITH reference to my telegram of yesterday, I have the honour to inclose copy of a semi-official note which I have received from the Acting Secretary of State pressing for a reply to his note of the 23rd July last, which contained the form of clause proposed by the United States' Government for the settlement of claims for damages to be inserted in the Behring's Sea Arbitration Agreement, together with a copy of the semi-official note which I have sent him in reply.

I have, &c.

(Signed)

JULIAN PAUNCEFOTE.

Inclosure 1 in No. 148.

Mr. Wharton to Sir J. Pauncefote.

My dear Sir Julian,

Department of State, Washington, October 12, 1891.

ON the 23rd July last I wrote you a note presenting a proposal for the settlement of claims for damages, which was to form part of the proposed Agreement of Arbitration of certain matters affecting the seal fisheries in Behring's Sea.

On the 22nd August I wrote requesting you to be kind enough to inform me when an answer to my note might be expected. On the 21st August you wrote me acknowledging the receipt of mine of the 22nd August, and expressing the hope that you would be in a position to reply to my note of the 23rd July in the course of the next few days. More than ten weeks have elapsed since sending you my note of the 23rd July, and no answer to it has yet been received.

The President is very desirous to have a conclusion reached in the negotiations concerning the Behring's Sea matters, and has requested me to draw your attention again to the importance of an early reply to his latest proposal.

The period fixed by the Agreement for a *modus vivendi* expires on the 2nd May next. The time within which it is hoped to obtain a final settlement of the questions in dispute between the two Governments is fast going by, and the President feels that if any effective action is to be had in the matter before the next fishing season opens, all the terms of the Agreement of Arbitration should be disposed of immediately.

Very truly yours,

(Signed)

WILLIAM F. WHARTON.

Inclosure 2 in No. 148.

Sir J. Pauncefote to Mr. Wharton.

My dear Mr. Wharton,

Washington, October 13, 1891.

ON receipt of your letter of yesterday asking for a reply to your note of the 23rd July last, containing a form of clause proposed by your Government to be inserted in the Behring's Sea Arbitration Agreement, to settle the long-debated question of damages, I telegraphed to Lord Salisbury for further instructions, informing him of the substance of your communication.

I understand that his Lordship is expected in London this week from the south of Europe, and I shall probably, therefore, receive an answer to my telegram before many days.

Although, as you observe, more than ten weeks have elapsed since the date of your official note above referred to, I need hardly remind you that the intervening time has been taken up with informal discussions between us with a view to finding a solution of the difficulty without unduly lengthening the official correspondence. This informal interchange of views, which, no doubt, had the approval of the President, has not been without advantage in throwing light on the troublesome question which still impedes the conclusion of the Agreement, and I now hope I may soon be in a position to resume the official correspondence.

I am, &c.

(Signed) JULIAN PAUNCEFOTE

No. 149.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received October 23.)

(Telegraphic.)

Washington, October 23, 1891.

WITH reference to your Lordship's telegram of the 20th instant, formal notes have been exchanged between Mr. Wharton and myself recording the adoption of the seven Articles of the Behring's Sea Arbitration Agreement as formally settled by both Governments.

Copies are sent by post.

No. 150.

The Marquis of Salisbury to Mr. Howard.

Sir,

Foreign Office, October 23, 1891.

WITH reference to your despatch of the 29th July last, I transmit herewith a copy of a despatch from the Behring's Sea Commissioners recording their high appreciation of the manner in which they were received by the Russian authorities at the Commander Islands and Petropaulowski.* I have to request you to convey to the Russian Government the thanks of Her Majesty's Government for the courteous reception accorded to the British Commissioners by the Russian officials.

I am, &c.

(Signed) SALISBURY.

No. 151.

Colonial Office to Foreign Office.—(Received October 27.)

Sir,

Downing Street, October 26, 1891.

WITH reference to previous correspondence, I am directed by the Secretary of State for the Colonies to transmit to you, to be laid before the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, inclosing a Memorial to Lord Salisbury from the British Columbian Sealers' Association.

I am, &c.

(Signed) ROBERT G. W. HERBERT.

Inclosure 1 in No. 151.

Lord Stanley of Preston to Lord Knutsford.

My Lord,

Government House, Ottawa, October 3, 1891.

I HAVE the honour to transmit to your Lordship herewith a copy of an approved Minute of the Privy Council of Canada, submitting a Memorial addressed to Her Majesty's Principal Secretary of State for Foreign Affairs by the Sealers' Association of Victoria with reference to the loss occasioned to Canadian vessels by reason of the enforcement of the *modus vivendi*, together with copy of the reply of the Minister of Marine and Fisheries to the representations of the Association.

I have, &c.

(Signed) STANLEY OF PRESTON.

Inclosure 2 in No. 151.

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council on the 29th September, 1891.

ON a Report, dated the 19th September, 1891, from the Minister of Marine and Fisheries, stating that he has received the appended letter from Mr. Richard Hall, Secretary of Victoria Sealers' Association, covering a Memorial signed by the owners, managing owners, and agents of the Canadian sealing fleet, addressed to the Right Honourable Her Majesty's Principal Secretary of State for Foreign Affairs.

This Memorial represents the position of the Canadian sealing fleet as affected by the *modus vivendi* in Behring's Sea during the present season.

The Minister also submits a copy of his answer to the Secretary of the Association thereto.

The Committee, on the recommendation of the Minister of Marine and Fisheries, advise that your Excellency be moved to forward copies hereof, together with the Memorial in question, to the Right Honourable the Principal Secretary of State for the Colonies, for the information of Her Majesty's Government.

All which is respectfully submitted for your Excellency's approval.

(Signed) JOHN J. MCGEE,
Clerk of the Privy Council.

Appendix (A).

*Office of the Victoria Sealers' Association, Victoria, B.C.,
September 1, 1891.*

Sir,
On behalf of the Sealers' Association of Victoria I do myself the honour to transmit herewith a Memorial addressed by them to the Imperial Government, and most respectfully to request that you will be pleased to forward it in the proper course, accompanied by such representations on the part of the Dominion Government as you may deem proper.

2. Although it may appear at first sight that a large sum would be involved in granting our prayer—some of the vessels having been ordered home before they entered Behring's Sea, and consequently without any catch at all, and others very shortly after entering, when their catch was small—some are now returning with full average catches, whose claim will consequently be nil, and it is to be presumed that many others may follow, equally fortunate, so that in all probability the amount required to meet our claims, although to us of very material importance, will to the British Government be comparatively insignificant.

3. We cannot, of course, give a complete list of our exact claims until all our vessels have returned, but will then forward them promptly.

4. Permit me to remind you that in 1885, when the Canadian Government excluded the United States' fishermen from participation in Canada fisheries, six months' notice was given, whereas no such courtesy was extended to us.

5. I am further directed to convey to you the expression of our grateful appreciation of the full and energetic manner in which you have hitherto supported our interests, and of our hope that you will feel justified in fully indorsing and urging the prayer of our present Memorial.

6. If you will be so good as to afford us any advice or suggestions which may occur to you as to any further steps which we can take in this matter, we will feel duly grateful.

I have, &c.

(Signed) RICHARD HALL,
Secretary to the Victoria Sealers' Association.

The Hon. the Minister of Marine and Fisheries.

Appendix (B).

Memorial.

To the Most Noble the Marquis of Salisbury, K.G., Her Majesty's Principal Secretary of State for Foreign Affairs, Premier.

The humble Memorial of the undersigned British Columbia Ship-owners interested in Fur-seal hunting,

Most respectfully sheweth:

That your memorialists desire to approach your Lordship with assurances of their loyalty to the British Crown, their attachment to the institutions of their country, and their personal respect for your Lordship.

That, cherishing such sentiments, your memorialists have viewed with surprise and pain the recent action of the Imperial Government in dealing with their interests.

That an Act prohibiting fur-seal hunting in Behring's Sea has been passed through Parliament, and has received the Royal Assent with unusual haste, whose effect has been to protect a large politico-commercial monopoly, belonging to a foreign State, at the expense and to the serious detriment of British interests.

That your memorialists regret that you can have no confidence in the sincerity of the United States' Government in desiring the protection of fur-seals, inasmuch as they have never made any effort to preserve animal life from the licence of their own citizens.

That at the present time they are conniving at the extermination of the whale and the sea-otter, Canadian fishermen having no part or share in those industries, and that your memorialists confidently believe that, had not Canadians shared in the fur-seal fishery, no complaint of extermination would ever have been heard of by the public.

That such Government, judged by its actions, has established little claim to any generosity or forbearance on the part of the British, but more especially of the Canadian people.

That the allegation publicly made by a prominent statesman that the Victoria, British Columbia, fur-seal industry is largely conducted by American capital and enterprise, is, so far as your memorialists are concerned, absolutely erroneous and without foundation.

That your memorialists have seen, with humiliation and sorrow, the flag of their country, to which they have ever been accustomed to look for protection, perverted on the behest of a foreign Power from its legitimate functions into an instrument of oppression, and your memorialists have been driven from their lawful avocations on the high seas with the loss of the entire season.

That in the year 1886 vessels, the property of your memorialists, were seized by the American cruisers on the high seas, upwards of 60 miles distant from land, their property confiscated and their crews imprisoned, the hardships and cruelties (unworthy of a civilized nation) suffered by them resulting in the death, during his custody, of the captain of one of the vessels, and that to this day the losses and indignities endured by your memorialists remain unredressed.

That the alleged diminution in the number of seals is, if true (although every evidence proves the contrary), far more likely to have resulted from the operations of the lessees of the Pribyloff Islands in slaughtering them by hundreds of thousands at their breeding-places, than from the comparatively insignificant operations of your memorialists, scattered over a vast area of the Pacific Ocean.

That under all the circumstances of the case, your memorialists having been deprived of the profits of their whole season's business, for which they were permitted to clear at British Custom-houses, most earnestly appeal to your Lordship's sense of right and justice to grant them compensation for their losses.

That it is the custom of the trade to pay hunters engaged in it at a rate of so much per skin for all skins taken, and sailors at so much per month, the voyage generally lasting until about the end of September.

That many of your memorialists' vessels have been in port for weeks, their voyage ended, and crews paid off at rates wholly inadequate to their winter maintenance, and in many cases insufficient to pay their passages back to Eastern Canada, where their homes are.

That in asking compensation your memorialists have in view the losses of their men as well as their own, and if awarded compensation on the basis hereinafter suggested, will undertake to pay all hunters and sailors employed by them at such rates as they would have been entitled to receive had the usual average number of seals been taken in Behring's Sea, and the voyage been completed at the end of September.

That your memorialists respectfully suggest, as the only equitable method of computing such compensation, that they be allowed the value at current prices of such number of seal-skins as they would presumably have killed in Behring's Sea had their voyage not been arrested, estimated at the average take per boat or canoe carried for the last three years (exclusive of such vessels as were seized or driven out of Behring's Sea in 1889).

That such principle, if accepted by the Imperial Government, will save the expense of further inquiry, and, by obviating a delay in payment, will confer a boon upon your memorialists.

Your memorialists, therefore, humbly pray that your Lordship will be pleased to take such prompt action for their relief as in your wisdom you may deem right and just.

And your memorialists, as in duty bound, will ever pray.

(Signed)

E. B. MARVIN AND CO.
(And 17 others.)

Vancouver, British Columbia, September 1, 1891.

Appendix (C).

Ottawa, September 19, 1891.

Sir,

I have the honour to acknowledge the receipt of your letter of the 1st instant, forwarding, on behalf of the Sealers' Association of Victoria, British Columbia, a Memorial addressed to the Right Honourable Her Majesty's Principal Secretary of State for Foreign Affairs, signed by the owners, managing owners, and agents of the Canadian sealing fleet.

I have brought the Memorial to the attention of his Excellency the Governor-General, with the view of communicating the same to Her Majesty's Government. I may add that any further representations which it may be deemed necessary to make on any branch of the question will at all times receive my prompt attention.

I may state, for the information of the Association, that, in the negotiations leading up to the present *modus vivendi*, the Government of Canada has not neglected to represent the great interest of Canadians engaged in the fur-seal industry.

Your Association is, I take it, already aware of the views of Her Majesty's Government on the question of compensation, since they were communicated through another channel, in answer to former protests.

I will, however, repeat that Her Majesty's Government has intimated that, while they incline to the belief that the closure of Behring's Sea to all sealing operations both on land and at sea will so enhance the value of the catch that the prices realized will compensate the sealers for their loss of the Behring's Sea catch, they will be prepared to consider claims to recompense where it can be shown that actual loss has accrued by reason of the legislation under review.

Formal protests on behalf of some eight or ten returned vessels have already reached me, and have been brought to the attention of Her Majesty's Government.

I observe that your letter intimates that in some instances no claims can lie, as the vessels returned with full catches.

I have noted your desire that I should advise your Association touching any further steps that might be taken.

I have, &c.

(Signed) CHARLES H. TUPPER.

Richard Hall, Esq., Secretary,
Victoria Sealers' Association, Victoria.

No. 152.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received October 27.)

My Lord,

Washington, October 19, 1891.

I HAVE the honour to transmit a copy of a note in relation to the compensation clause of the Behring's Sea Arbitration Agreement which, in accordance with the instructions contained in your Lordship's telegram of the 15th instant, I addressed to the Acting Secretary of State.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure in No. 152.

Sir J. Pauncefote to Mr. Wharton.

Sir,

Washington, October 17, 1891.

IMMEDIATELY on the receipt of your note of the 23rd July last, relative to the form of compensation clause to be inserted in the Behring's Sea Arbitration Agreement, I transmitted a copy of it to the Marquis of Salisbury. Since then I have been in correspondence with his Lordship respecting the new form of clause on that subject proposed in your note as Article 7.

I regret to inform you that Her Majesty's Government, after the fullest consideration, have arrived at the conclusion that this new clause could not properly be assented to by them.

In their opinion it implies an admission of a doctrine respecting the liability of Governments for the acts of their nationals, or other persons sailing under their flag, on the high seas, for which there is no warrant in the law of nations. Thus it contains the following words:—

"The Government of the United States having presented on its own behalf, as well as of the lessees of the privilege of taking seals on the Pribyloff Islands, claims for compensation by reason of the killing of seals in Behring's Sea by persons acting under the protection of the British flag, the Arbitrators shall consider and decide upon such claims," &c.

These words involve the proposition that Her Majesty's Government are liable to make good losses resulting from the wrongful action of persons sailing outside their jurisdiction under the British flag.

Her Majesty's Government could not accept such a doctrine.

The Article dealing with the question of compensation is therefore likely to give occasion for lengthy negotiations, which must retard indefinitely the decision of the main questions of law on which the validity of the claims of either Government entirely depend.

Both Governments being equally desirous to find a prompt solution of the difficulty which now impedes the conclusion of the Arbitration Agreement, Lord Salisbury has authorized me to make the following proposal:—

His Lordship suggests that the six Articles of the Arbitration Agreement already accepted by both Governments should be signed now, and also an Article providing for the reference to the Arbitrators of any question of fact which either Government may desire to submit to them regarding the claims for compensation to which it considers itself to be entitled. The application of international law to those facts would be left as a matter for further negotiation after they shall have been ascertained, and might be subsequently referred to the Arbitrators, in whole or in part, if the two Governments should agree to do so.

The above proposal presents so logical and practical an issue out of the difficulty that I cannot but think that it will commend itself to the favourable consideration of the President, and I hope it will meet with his acceptance.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 153.

Colonial Office to Foreign Office.—(Received October 30.)

Sir,

Downing Street, October 29, 1891.

I AM directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, with reference to previous correspondence, a copy of a telegram from the Governor-General of Canada stating that the Behring's Sea Commissioners are awaiting instructions at Ottawa.

I am, &c.

(Signed) JOHN BRAMSTON.

Inclosure in No. 153.

Lord Stanley of Preston to Lord Knutsford.

(Telegraphic.)

Ottawa, October 24, 1891.

BADEN-POWELL and Dawson returned and await instructions here.

No. 154.

The Marquis of Salisbury to the Behring's Sea Commissioners.

Gentlemen,

Foreign Office, October 30, 1891.

WITH reference to your despatch of the 5th August last, I transmit to you herewith a copy of a despatch from Her Majesty's Minister at Washington,* inclosing correspondence with the United States Government respecting the number of seals killed during the recent fishing season in Behring's Sea.

I shall be glad to receive any observations you may have to make on this despatch.

I am, &c.

(Signed) SALISBURY.

No. 155.

Foreign Office to Sir G. Baden-Powell.

Sir,

Foreign Office, October 30, 1891.

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your Memorandum, dated the 10th August, on the limitation of the number of fur-seals to be taken on the Pribyloff Islands during the season of 1891.

His Lordship desires me to convey to you his thanks for this communication.

I am, &c.

(Signed) P. CURRIE.

No. 156.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received October 31.)

(Telegraphic.)

Washington, October 31, 1891.

I SAW Mr. Blaine to-day on the subject of the Behring's Sea arbitration. He told me that he approved of my last proposal to the effect that the seven Arbitration Articles and the Article providing for a Joint Commission should be signed at once provisionally, with a view to their being subsequently embodied in formal documents. He added that he was ready to proceed at once to discuss with me the Articles of the Arbitration Convention which still remained unsettled respecting the appointment of Arbitrators and other matters, and he asked me whether I could give him any information as to your Lordship's views on this subject. On my expressing my inability to do so, he threw out the suggestion that it would be best, in view of all the circumstances of the case, if the Court of Arbitrators were to be composed of English and American jurists of repute, two on each side, with an Empire to be chosen by some foreign Power to be agreed on between the two Governments. He said he would have no objection to Holland, Sweden, France, or Switzerland. In his opinion, the appointment of English and American jurists as Arbitrators was advisable on account of the community, not only of language, but of the principles of law, of Great Britain and the United States. He asked me to inform your Lordship of this suggestion, and to ascertain the views taken of it by Her Majesty's Government.

No. 157.

The Behring's Sea Commissioners to the Marquis of Salisbury.—(Received November 2.)

My Lord,

Vancouver, October 14, 1891.

IN continuation of our despatch of the 17th September last, we have the honour to report that, after leaving Behring's Sea, we visited Kodiak Island, Sitka, and Shakan, making inquiries of both the natives and White residents at those places.

2. Her Majesty's ship "Nymph," on her way to Esquimalt, following a different course, met and assisted us at Sitka.

3. Continuing our cruise of investigation, we called at the following places on the coast of British Columbia, viz.: Fort Simpson, Metlakatla, Port Essington, Musset (Queen Charlotte Islands), Bella Bella, Nawitli, Clayoquot Sound, and Barclay Sound, where, by personal inquiries, we amplified the written statements which, in compliance with our previous request, had been forwarded to us by the various Indian agents on the coast.

4. We have thus been enabled to acquire a direct knowledge of the fur-sealing industry, both past and present, as it affects the Indians of South-east Alaska and British Columbia.

5. We also visited the Indian Settlement at Neah Bay, on the American shore of the Straits of Fuca, where we obtained valuable information.

6. Reaching Esquimalt on the 8th October, we reported our arrival to the Commander-in-chief on the Pacific Station.

7. While at Victoria and Vancouver deputations from the Sealers' Associations met us, and from them and from others we made final inquiries in order to obtain authoritatively the views of all persons connected with the fur-seal fishery on the facts of seal life, and on the protective measures to which they would agree.

8. We also paid a special visit to the American port of Seattle, the chief centre of the American pelagic sealing industry in Puget Sound.

9. Such is the record of our local inquiries in the North Pacific Ocean, in which we availed ourselves of every known source of information likely to assist us in arriving at sound conclusions.

10. We now proceed direct to Ottawa, completing our Report to Her Majesty, and awaiting further instructions.

We have, &c.
(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

No. 158.

The Behring's Sea Commissioners to the Marquis of Salisbury.—(Received November 2.)

My Lord,

Port William, Ontario, October 19, 1891.

WITH reference to your Lordship's despatch of the 12th September last, respecting the limitation of the number of seals to be killed on the Pribyloff Islands this year, we have the honour to inform your Lordship that on the 18th instant we received a private letter from Sir Julian Pauncefote informing us that "The United States' Government have replied to our" (Her Majesty's Government's) "complaint of the violation of the *modus vivendi*. They admit that Major Williams allowed no less than 12,071 seals to be killed. They do not say that they approve his action, but they merely give his explanations, and hope Her Majesty's Government will be satisfied that he had no disposition to violate the Agreement."

Major Williams informed us on the islands early in August that nearly 9,000 seals had been killed by that date, and that the killing would be stopped until the "stagey" season was over, but resumed in October.

We therefore assume that 3,000 of the 12,071 are to be killed this autumn, and have this day addressed to your Lordship a cypher telegram of which the following is a paraphrase:—

"October 19, 1891.

"Sir Julian Pauncefote informs us that the United States' Government admit that permission has been given to kill 12,000 seals on the seal islands this year. We understand that about 3,000 of these remain to be killed this autumn; wherefore we hope that the United States' Government have agreed to send instructions to the islands to stop killing at once until May 1892.—BADEN-POWELL."

We noticed in the newspapers a report that the United States' revenue-cruiser "Rush," on arrival at San Francisco, was unexpectedly ordered to return to the Pribyloff Islands in the early part of October. The United States' Government thus had an opportunity, of which they possibly availed themselves, of sending to the seal islands the necessary orders to stop all further killing this year. We can hardly suppose that they would neglect so good an occasion, at all events to mitigate the effects of the misunderstanding of clause 2 of the *modus vivendi*, but we had ourselves no information as to any such action having been taken by the United States' Government, and as Sir Julian Pauncefote did not mention the point we felt it our duty to at once communicate our views by telegraph to your Lordship.

We have, &c.
(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

No. 159.

The Behring's Sea Commissioners to the Marquis of Salisbury.—(Received November 2.)

My Lord,

Ottawa, October 21, 1891.

WE have the honour to transmit, for your Lordship's consideration, a copy of a Memorial which was handed to us on the 14th instant by the Sealers' Association of Vancouver, stating their special claims for compensation on account of the Proclamation issued for this year against the taking of fur-seal in Behring's Sea.

We informed the Association that the subject was one outside the precise scope of our Commission, but that we would have pleasure in laying the Memorial before your Lordship.

We have also, in compliance with the request of the Sealers' Association, transmitted a copy of the Memorial to the Governor-General of Canada.

We have, &c.

(Signed)

GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

Inclosure in No. 159.

The Vancouver Sealers' Association to the Behring's Sea Commissioners.

Gentlemen,

[No date.]

WE, the undersigned owners of the sealing fleet of the city of Vancouver, have the honour to make the following representations:—

That while all owners of sealing-vessels in the province must have suffered from the operation of the *modus vivendi*, we, the owners of the sealing fleet belonging to the city of Vancouver, have probably felt the hardship the most severely from the reason that the industry is entirely a new one, the whole fleet of vessels having been built within the last few months, and equipped by us for the sole purpose of proceeding to Behring's Sea in the past season.

That at the commencement and during the construction of these vessels we had no reason to suppose that any restriction would be placed upon their movements.

That having completed them, we in good faith went to the great expense of fitting them out for the fisheries, and in fact had no intention [? intimation] of the effects of the *modus vivendi* until after their arrival in Behring's Sea.

That the industry being a new one with us, and not having the profitable results of previous years as an offset, we, as before stated, are the greatest sufferers by the action of the Government in this respect.

We would also call your attention to the fact that the hunters employed in the above-named vessels were engaged for the voyage, and received no other recompense than an amount per skin saved, as agreed upon, and consequently they have made a claim upon the owners for compensation based upon earnings of former years.

We have not thought it necessary to burden you with further details of our case, as you must be already fully cognizant of it, but shall be glad at any time to supply any information in our power.

We have, &c.

(Signed)

D. OPPENHEIMER, *President.*
(And others.)

No. 160.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received November 2.)

My Lord,

Washington, October 23, 1891.

WITH reference to my telegram of the 19th instant, I have the honour to inclose copies of notes which I have exchanged with the Acting Secretary of State, recording the adoption by both Governments of the seven Articles of the Behring's Sea Arbitration Agreement as finally settled.

Mr. Wharton informed me yesterday that the President is of opinion that no formal instrument should be signed until all the other provisions relating to the number and choice of Arbitrators and the time and place of their sitting, &c., have been settled, so that the whole may be embodied in a Convention to be laid before Congress.

I suggested that, in the meanwhile, copies of the seven Articles and of the Joint Commission Article, which have been agreed to, should be signed by him and me on behalf of our respective Governments.

He said that he would submit that course to the President.

I have, &c.

(Signed)

JULIAN POUNCEFOTE.

Inclosure 1 in No. 160.

Mr. Wharton to Sir J. Paunceforte.

Sir,

Department of State, Washington, October 22, 1891.

I HAVE laid before the President your note of the 17th instant, and he directs me to express his regret that your Government has not seen fit to accept the modified form of the 7th clause which was proposed in my note of the 23rd July last.

This modification of the clause in question was made with a view to obviate the objection urged in your note of the 13th July, and the President is unable to see how it can be held to imply an admission on the part of Great Britain "of a doctrine respecting the liability of Governments for the acts of their nationals or other persons sailing under their flag on the high seas for which there is no warrant in international law."

The proposition was expressly framed, so as to submit to the Arbitrators the question of the liability of each Government for specified acts complained of by the other, and its language no more implies an admission of liability on the part of one Government than on the part of the other. It is precisely because the two Governments cannot agree as to the question of liability that arbitration becomes necessary. The facts upon which the respective claims for compensation rest are not seriously in dispute; to wit, the seizure of vessels and the killing of seals in Behring's Sea, and it would probably not require the aid of Arbitrators for their ascertainment. But it is the more important and difficult question of liability respecting which the two Governments find it necessary to invoke the interposition of impartial arbitration. It was not the intention of this Government to require of Great Britain any admission of liability for the acts complained of, but it has felt that if the arbitration was to result in a full settlement of the differences between the two Governments, the question of respective liability for these acts should go to the Arbitrators for decision.

In the informal Conferences which have taken place between us since the date of my note of the 23rd July, you will remember that I have solicited from you any suggestions in support of the objection that the modified clause assumes a liability on the part of your Government, having in view on my part an amendment of the phraseology to overcome the objection, and I have to express disappointment that no such suggestions were found in your note of the 17th instant. It was for this reason, and in the hope that the clause might be made acceptable to your Government, that, after the receipt of your note, I submitted to you informally the following amendment to be added to the 7th clause, as proposed in my note of the 23rd July:—

"The above provision for the submission to the Arbitrators by the United States of claims for compensation by reason of the killing of seals by persons acting under the protection of the British flag shall not be considered as implying any admission on the part of the Government of Great Britain of its liability for the acts of its nationals or other persons sailing under its flag."

We have now been informed by you that your Government is unwilling to accept the clause even with this addition by way of amendment.

When in your note of the 21st February last you communicated the desire of Lord Salisbury for a "reference to the Arbitrator of the question of damages due to persons who have been injured, in case it should be determined by him that the action of the United States in seizing British vessels had been without warrant in international law," the President cheerfully accepted the suggestion, and, coupling with it the claim of damages preferred by the United States, proposed to submit both questions, as presented by the respective Governments, to arbitration, thus making a complete and final settlement of all differences between the two Governments connected with the seal fisheries. To withdraw this comprehensive submission of specified claims, and substitute for it a mere reference to the Arbitrator of questions of facts touching the same claims, which are not to be held binding upon either Government, as you propose, is, in the opinion of the President, an imperfect, and, he fears, may prove, an ineffectual disposition of the question of claims. But having failed in his efforts by modification and amendment to secure the acceptance by your Government of the clause for a full adjustment of these claims, and heartily participating in the desire expressed in your note for a prompt solution of the difficulty which impedes the conclusion of the arbitration, he has thought it best to terminate the discussion by proposing to you the following, to constitute the text of clause 7:—

"The respective Governments having found themselves unable to agree upon a reference which shall include the question of the liability of each for the injuries alleged

to have been sustained by the other, or by its citizens, in connection with the claims presented and urged by it, and being solicitous that this subordinate question should not interrupt or longer delay the submission and determination of the main questions, do agree that either may submit to the Arbitrators any question of fact involved in said claims and ask for a finding thereon, the question of the liability of either Government upon the facts found to be the subject of further negotiation."

I have, &c.

(Signed) W. F. WHARTON.

Inclosure 2 in No. 160.

Sir J. Pouncefote to Mr. Wharton.

Sir,

Washington, October 23, 1891.

I HAVE the honour to acknowledge the receipt of your note of yesterday's date in reply to mine of the 17th instant, in which I stated the grounds on which Her Majesty's Government found themselves unable to accept the form of clause relating to damages, proposed in your note of the 23rd July last for insertion in the Behring's Sea Arbitration Agreement.

In that note, I informed you that I had been authorized by the Marquis of Salisbury, with a view to a prompt settlement of the difficulty, to make the following suggestion, namely, that "the six Articles of the Arbitration Agreement already accepted by both Governments should be signed now, and also an Article providing for the reference to the Arbitrators of any question of fact which either Government may desire to submit to them regarding the claims for compensation to which it considers itself to be entitled. The application of international law to those facts would be left as a matter for future negotiation after they shall have been ascertained, and might be subsequently referred to the Arbitrators in whole or in part if the two Governments should agree to do so."

In your note under acknowledgment, in which you reply to the above suggestion, you advert to the discussions and informal conferences, which have taken place on the subject of the clause dealing with the question of damages, and you state that the President is unable to see how the seventh clause, proposed in your note of the 23rd July last, can be held to imply an admission on the part of Great Britain "of a doctrine respecting the liability of Governments for the acts of their nationals, or other persons sailing under their flag on the high seas, for which there is no warrant in international law." Those are, no doubt, the terms in which I stated generally the objection of Her Majesty's Government to the form of clause in question. But I am relieved from explaining their objection in greater detail by the proposal of the President, with which your note concludes, to substitute a new clause, which substantially carries out Lord Salisbury's suggestion.

You state that the President has thought it best to terminate the discussion by proposing to me the following to constitute the text of clause 7:—

"The respective Governments, having found themselves unable to agree upon a reference which shall include the question of the liability of each for the injuries alleged to have been sustained by the other, or by its citizens, in connection with the claims presented and urged by it, and being solicitous that this subordinate question should not interrupt or longer delay the submission and determination of the main questions, do agree that either may submit to the Arbitrators any question of fact involved in said claims, and ask for a finding thereon, the question of the liability of either Government upon the facts found to be the subject of further negotiation."

I am glad to be able to announce to you that I have received by telegraph the authority of Lord Salisbury to accept the above clause on behalf of Her Majesty's Government, and, in doing so, I beg to express my gratification at this satisfactory solution of the difficulty which has delayed the conclusion of the Arbitration Agreement.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Foreign Office to Colonial Office.

Sir,

Foreign Office, November 2, 1891.

I AM directed by the Marquis of Salisbury to transmit, to be laid before Secretary Lord Knutsford, a paraphrase of a telegram from Her Majesty's Minister at Washington,* reporting an interview with Mr. Blaine respecting the Behring's Sea arbitration.

His Lordship will be glad to be favoured with Lord Knutsford's opinion on Mr. Blaine's suggestion that British and United States' jurists of repute, two on each side, should be appointed as Arbitrators, and that an Umpire should be selected by one of the foreign Powers named.

Lord Salisbury is of opinion that the proposal to appoint jurists as Arbitrators might be accepted by Her Majesty's Government, and he is disposed to think that the choice of the foreign Power with whom the selection of the Umpire is to rest should be decided by lot.

I am, &c.
(Signed) P. CURRIE.

No. 162.

The Marquis of Salisbury to Sir J. Pauncefoot.

Sir,

Foreign Office, November 6, 1891.

I HAVE received your despatch of the 23rd ultimo, inclosing copies of the notes which you have exchanged with the Acting Secretary of State, recording the adoption by the British and American Governments of the seven Articles of the Behring's Sea Arbitration Agreement as finally settled.

In reply, I have to state that Her Majesty's Government approve the terms of your note, as well as the suggestion made by you to Mr. Wharton respecting the signature of the Articles as reported in the last paragraph of your despatch.

I am, &c.
(Signed) SALISBURY

No. 163.

The Marquis of Salisbury to the Behring's Sea Commissioners.

Gentlemen,

Foreign Office, November 6, 1891.

I HAVE received your despatch of the 21st ultimo, forwarding a copy of a Memorial from the Sealers' Association of Vancouver, in which the latter state their special claims for compensation on account of the Proclamation issued against the taking of fur-seal in Behring's Sea.

The answer which you returned to the Association, as reported in the same despatch, is approved by Her Majesty's Government.

I am, &c.
(Signed) SALISBURY.

No. 164.

The Marquis of Salisbury to the Behring's Sea Commissioners.

Gentlemen,

Foreign Office, November 6, 1891.

I HAVE received your despatch of the 14th ultimo reporting your movements, in the prosecution of the inquiry with which you have been charged, between the 18th September and the 14th October.

I have to state that your proceedings are approved by Her Majesty's Government.

I am, &c.
(Signed) SALISBURY.

Admiralty to Foreign Office.—(Received November 12.)

Sir,

Admiralty, November 10, 1891.

I AM commanded by the Lords Commissioners of the Admiralty to transmit, for the information of the Secretary of State for Foreign Affairs, copy of the remarks of the Commander-in-chief on the Pacific Station, dated the 1st October, in forwarding the Report of Her Majesty's ships in the Behring's Sea in 1891, received from Commander Turner, of Her Majesty's ship "Nymphé."

My Lords propose, with the concurrence of Lord Salisbury, to approve of the proceedings of Commander Turner, of Her Majesty's ship "Nymphé," Commander Barr, of Her Majesty's ship "Porpoise," and Lieutenant Hadley, of Her Majesty's ship "Pheasant."

I am, &c.

(Signed) EVAN MACGREGOR.

Inclosure 1 in No. 165.

Rear-Admiral Hotham to Admiralty.

(General Report of Proceedings of Her Majesty's ships in the Behring's Sea, 1891.)

"Warspite," at Esquimalt, October 17, 1891.

FORWARDED, observing I am glad to be able to bring to their Lordships' notice the good feeling that existed between Her Majesty's ships and those of the United States; also that the Commissioners of Seal Fishery question (Sir G. Baden-Powell, K.C.M.G., M.P., and Professor Dawson, of Canada) have represented to me by letter their appreciation of the aid they received from Commander Burr, of Her Majesty's ship "Porpoise," and Lieutenant-Commander Hadley, Her Majesty's ship "Pheasant," in carrying out their work, under the superintendence of Commander Turner, Senior British Naval Officer.

(Signed) CHAS. F. HOTHAM.

Inclosure 2 in No. 165.

Commander Turner to Rear-Admiral Hotham.

Sir,

"Nymphé," at Esquimalt, October 8, 1891.

I HAVE the honour to report that on arriving at Esquimalt from a cruise on the 16th June, I found awaiting me telegraphic orders from the Admiralty to proceed with Her Majesty's ship "Pheasant" to the Behring's Sea as soon as possible, and there co-operate with the United States' men-of-war in warning sealing-vessels to leave the Behring's Sea, and in seizing those who might fail to heed the warning.

I received later telegrams, ordering me to charter steam-collier "Costa Rica" to take to the Behring's Sea 2,000 tons of coal for the use of Her Majesty's ships, and also to charter steam-ship "Danube" for the use of Sir George Baden-Powell, K.C.M.G., and Dr. Dawson, Her Majesty's Commissioners.

On the 27th June I proceeded to Iliuliuk Harbour, Ounalaska, after leaving orders for Her Majesty's ship "Pheasant" and steam-ship "Costa Rica" to leave for the same port as soon as they were ready for sea, and on my arrival I found in harbour the British schooner "E. B. Marvin," which had been seized by the revenue-steamer "Rush" for sealing in the Behring's Sea after being warned.

The United States' force in the Behring's Sea was United States' ships "Mohican," "Alert," "Thetis," and the revenue-steamers "Corwin" and "Rush." United States' ship "Marion" did not arrive until the 17th August; steam-ship "Alki" was also chartered to bring up a detachment of marines, and they used her as a receiving-ship for the crews of captured sealers and as an escort for taking schooners, which had been seized, to Sitka.

I took from the "E. B. Marvin" all their guns, ammunition, and seal-skins, and sent her down to Victoria with orders to report herself on arrival to the Collector of Customs.

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Steam-ship "Costa Rica" arrived at Ounalaska on the 9th, Her Majesty's ship "Pheasant" on the 12th, and Her Majesty's ship "Porpoise" from the China Station on the 27th July.

Before leaving Ounalaska I left orders for Her Majesty's ships "Porpoise" and "Pheasant" to coal immediately on arrival, and cruize on the stations agreed upon (Her Majesty's ship "Nymph" and United States' ship "Alert" on the eastern, and Her Majesty's ship "Pheasant" and United States' ship "Mohican" on the western side of the Pribyloff Islands), and seize all vessels which had been previously warned, letting go with a warning those which had not been boarded before.

With my orders, I sent to each ship a letter of warning, to be given to the masters of schooners boarded, a form of certificate to be written in the log or register of each vessel warned, and instructions for the boarding officer, copies of all of which are inclosed herewith.

On the 12th July, after receiving from United States' ship "Mohican" a list of all vessels which had been warned, and copies of which I left for Her Majesty's ships "Porpoise" and "Pheasant," I sailed for the Pribyloff Islands, and cruized to the north-east of them, according to arrangement with Commander Cotton, Senior American Naval Officer.

On the 18th July I anchored off St. Paul's village, and United States' ships "Mohican" and "Thetis" arrived the same day, United States' ship "Alert" and Her Majesty's ship "Pheasant" arriving on the 19th. United States' ship "Mohican" reported 5 vessels warned by herself, 2 by United States' ship "Thetis," 6 by United States' revenue-steamer "Corwin," and 3 by United States' revenue-steamer "Rush," while I warned 1 vessel and Her Majesty's ship "Pheasant" 5.

The Captains of all the men-of-war in port called on the Government and Seal Company's agents at St. Paul's, and visited the rookeries in company with them. It was especially pointed out that the seals were decreasing, as on the largest rookery a great tract of land, which a few years ago had been covered with seals, and the boulders and rocks on which had been worn smooth by them, was now totally deserted, and no increase of seals had been observed on other rookeries to compensate for this deficiency.

On arriving at Ounalaska on the 25th July I found there steam-ship "Danube" with Her Majesty's Commissioners on board, and Her Majesty's ship "Pheasant."

Steam-ship "Danube" sailed for the Pribyloff Islands on the 26th July, and on the 29th July I sent Her Majesty's ship "Pheasant" to meet her there, so that she might place proper boats, &c., at the disposal of Sir George Baden-Powell.

United States' ship "Albatross" with the United States' Commissioners, Professor Mendenhall and Professor Dall, arrived at Ounalaska on the 25th July, and a few days afterwards proceeded to the Pribyloff Islands.

On the 1st August I ordered steam-ship "Costa Rica" to proceed to Sitka, and from there fetch mails and stores which steam-ship "Queen" was bringing up for Her Majesty's ships in the Behring's Sea.

On the 1st August, after leaving sailing orders for Her Majesty's ship "Porpoise" to proceed to sea on the 7th, cruize around the Pribyloff Islands, and return on the 19th, I left Ounalaska and anchored at St. Paul's on the 8th August, having warned two sailing-schooners during the cruize.

I proceeded from St. Paul's on the 10th August and cruized till the 18th, touching at the Islands of St. Matthew and St. Lawrence, and at the former place I met steam-ship "Danube" in company with Her Majesty's ship "Pheasant."

Her Majesty's ship "Porpoise" arrived at Ounalaska from her cruize on the 19th, and steam-ship "Costa Rica" with mails from Sitka, and Her Majesty's ship "Pheasant" on the 20th August.

Steam-ship "Danube" arrived on the 21st August, and sailed again for the Island of Attou on the 24th. I ordered Her Majesty's ship "Porpoise" to proceed to the same destination, so that she might render the same help to Her Majesty's Commissioners as Her Majesty's ship "Pheasant" had on their last cruize. I also ordered Her Majesty's ship "Porpoise" to proceed to the China Station as soon as steam-ship "Danube" started to return to Ounalaska.

On the 28th August I sailed from Ounalaska and proceeded to the westward, anchoring again at Ounalaska on the 6th September. During this cruize, a record of seals seen was kept for the information of Her Majesty's Commissioners.

I ordered Her Majesty's ship "Pheasant" to proceed towards St. George's Pribyloff Islands, on the 1st September, to cruize from there to Cape Newenham, and return on a zigzag course to Ounalaska.

On the 1st September the United States' ship "Mohican" towed into port the British schooner "Otto," in accordance with my letter to Commander C. S. Cotton, United States' Navy, dated the 26th August, 1891, a copy of which is herewith inclosed. Her Majesty's ship "Pheasant" was in harbour at the time, and after taking charge of her papers sent her down to Victoria.

On arriving at Ounalaska on the 6th September, I found in port United States' ships "Mohican," "Marion," "Alert," and "Thetis," and as United States' ship "Alert" had received telegraphic orders for China, and could not obtain either coal or oil at Ounalaska, I sold her the amount of each she required.

United States' ship "Marion" sailed on the 7th, and the United States' ship "Alert" on the 10th August, for China, and later United States' ship "Mohican" and United States' ship "Thetis" went out for a cruise, Commander Cotton intending to sail for San Francisco after his return to Ounalaska.

Steam-ship "Danube" arrived at Ounalaska on the 17th September. As vessels coming in brought news that the usual heavy weather had set in, and I considered there was no further chance of sealing in open boats for the remainder of this year, and as Sir George Baden-Powell informed me that he intended to proceed to Sitka, I sailed from Ounalaska for that port on the 20th September, at the same time as steam-ship "Danube" and steam-ship "Costa Rica."

After coaling at Sitka from steam-ship "Costa Rica," I ordered her to proceed to Esquimalt on the 26th September. Steam-ship "Danube" left Sitka on the 27th September, and went down by the outside route, calling at various ports for sealing information.

I sailed from Sitka on the 27th September, and arrived at this port on the 2nd October.

Before leaving the Behring's Sea, I thanked Commander Cotton and the officers in command of United States' men-of-war for the efficient manner in which they had co-operated with me. Her Majesty's ships "Porpoise" and "Pheasant" also materially aided me in my mission.

The weather experienced on the whole was very foggy and rainy, and the fogs greatly aided the sealing-schooners in escaping observation.

I have, &c.

(Signed) CHAS. T. TURNER.

Inclosure 3 in No. 165.

Letter of Warning addressed by Commander Turner to the Masters of Sealing Schooners.

Sir,

"Nympe, Behring's Sea,

IN accordance with the Proclamation of Her Britannic Majesty's Government, a copy of which is herewith handed you, and in compliance with the orders of the British Admiralty, you are hereby warned not to engage in the killing or taking of seals in that part of Behring's Sea lying east of the boundary-line between United States and Russian waters, referred to in the Proclamation, and the position of which, traced upon a Chart, will be shown you by the officer who delivers this.

The name of your vessel will be furnished to all vessels of war (British and United States) and revenue-vessels in this sea, and you will be subject to seizure if you fail to heed this warning, and are found to be, or to have been, engaged in sealing in the prohibited waters since its delivery to you.

I have, &c.

(Signed) CHAS. T. TURNER.

Inclosure 4 in No. 165.

Form of Certificate to be copied in Register or Log by Boarding Officer.

H.M.S.

Date

I CERTIFY that I have this day delivered the Proclamation of Her Britannic Majesty and letter of warning of to leave these waters forthwith to this vessel, and that there are now skins on board.

[572]

Q 2

Data.

Date. Place or position (when boarded), name of vessel, name of owner, name of master, nationality, port of register, tonnage, number of skins taken, number of skins on board. Remarks.

Inclosure 5 in No. 165.

Instructions for Boarding Officer.

"Nymphe," at Ounalaska, July 12, 1891.

THE boarding officer will deliver the Proclamation of Her Britannic Majesty and the letter of warning to masters of vessels, read the letter to them, and make entry on register or log (preferably the register) of all vessels engaged in, or equipped for, sealing, certifying to the delivery.

He will ascertain, if possible, the number of skins taken, and the number on board, if the vessel be a sealer or equipped as one. If the master states there are none, he will take his statement as correct, but if he states that a certain number are on board, he will satisfy himself that the number is not less than that stated. If the master declares any intention as to his future movements, the boarding officer will make a note of it.

A tracing showing the line of demarcation between the United States' and Russian waters is to be furnished for his information, and that of masters of vessels boarded.

(Signed) CHAS. T. TURNER,
Commander and Senior Officer.

The Commanding Officers,
Her Majesty's ships "Porpoise" and "Pheasant."

Inclosure 6 in No. 165.

Commander Turner to Commander Cotton, U.S.N.

Sir,

"Nymphe," at Ounalaska, August 26, 1891.

I HAVE the honour to inform you that since I told you by word of mouth only that I considered schooner "Otto" to be a just and lawful capture for any vessel of war of either nation, as she had sailed for the Behring's Sea for sealing purposes after I had told the Collector of Customs, Mr. Milne, of the Proclamation, I now put this in writing for your guidance.

I have, &c.
(Signed) CHAS. T. TURNER.

No. 166.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received November 16.)

(Telegraphic.)

Washington, November 16, 1891.

MR. BLAINE informed me to-day that he was ready to agree to the following arrangements:—

The Arbitrators, who must all be jurists of repute, and understand English, are to be seven in number. Two British subjects (one may be a Canadian) shall be appointed by Her Majesty's Government. Two Americans shall be appointed by the United States' Government. The other three shall be appointed by foreign Governments. He has no objection to selection by France, Holland, Sweden, Switzerland, Mexico, or Brazil.

He thought Paris would not be objected to as place of sitting, but he could not pledge himself, as he had omitted to consult the President.

Copies of the Articles of the Arbitration Agreement and the Joint Commission Article, as agreed on in correspondence, are being prepared for signature.

No. 167.

Foreign Office to Admiralty.

Sir,

Foreign Office, November 10, 1891.

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your letter of the 10th instant, inclosing a general Report of the proceedings of Her Majesty's ships in the Behring's Sea, which has been sent home by the Commander-in-chief on the Pacific Station.

I am to state that Lord Salisbury concurs in the proposal of the Lords Commissioners of the Admiralty to approve the proceedings of Commanders Turner and Barr and Lieutenant Hadley, of Her Majesty's ships "Nymph," "Porpoise," and "Pheasant."

I am, &c.

(Signed) T. H. SANDERSON.

No. 168.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received November 21.)

(Telegraphic.)

Washington, November 21, 1891.

WITH reference to the last paragraph of my telegram of the 16th instant, Monday next has been appointed by Mr. Blaine for signature. The following headings have been agreed upon:—

"The following is the text of Articles for insertion in the Behring's Sea Arbitration Agreement, as settled in the diplomatic correspondence between (the two Governments respectively)."

For the Joint Commission Article the same heading, *mutatis mutandis*.

Are they approved by your Lordship?

No. 169.

The Marquis of Salisbury to Sir J. Pauncefote.

(Telegraphic.)

Foreign Office, November 22, 1891.

YOU are authorized to sign the Arbitration Agreement and the Joint Commission Article with the headings suggested in your telegram of yesterday; but you should hand in a note containing the following reservations at the time of doing so:—

Firstly, that it is understood by Article 6 that the question of the necessity of any Regulations for the proper protection and the preservation of fur-seals in, or habitually resorting to, the Behring's Sea is left to the decision of the Arbitrators, as well as the nature of those Regulations, if the necessity, in their judgment, is proved to exist.

Secondly, that the observance of the Regulations will not become obligatory on the United States and Great Britain until the other Maritime Powers also shall have accepted them.

Great Britain and the United States would otherwise simply hand over to the nationals of other countries the right of exterminating the seals.

No. 170.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received November 23.)

(Extract.)

Washington, November 13, 1891.

I HAVE the honour to transmit herewith copies of a narrative by a correspondent of the "New York Herald" (published in that journal on the 8th instant) of his voyage to Behring's Sea during the last seal fishery season, undertaken for the purpose of inquiring into the facts connected with that industry.

A part of the narrative which is of special interest is that which appears at the close under the heading, "How to save the Seal."

Extracts from the "New York Herald" of November 8, 1891.

ILLICIT SEALING.—ITS RISE AND INCREASE IN THE LAST TEN YEARS IN BEHRING'S SEA.—There are two systems of seal hunting: one with Indian hunters, who get paid from 2 dollars to 4 dollars for every skin a canoe brings in, and the other with White hunters, who are paid a little less. The Indians hunt in canoes, two in each, and use the spear almost exclusively; the White hunter has a steerer and a boat puller, and uses the gun, loaded with five drams of gunpowder and about twenty buckshot. It is the latter method that is so complained of by those who wish to prevent the extermination of the seal, as they say with truth a very large percentage are shot and either killed or mortally wounded, without being recovered.

On the 2nd July we left Victoria, intending to make our first call at a Settlement of Indians called Clayoquot. It seemed strange that, although the Queen's Proclamation forbidding the killing of seals by British subjects had already been announced, no difficulty was made by the authorities in giving the captain of the "Otto" his clearance for the Behring's Sea. Neither was he officially informed of the Proclamation, notwithstanding the fact that Her Majesty's steam-ships "Pheasant" and "Nymphé" had already sailed from Esquimaux to the sea to carry out the orders of the Queen's Government. Before going into the history of the cruise of the "Otto," a short account of the rise and development of the seal-poaching industry will be necessary. Although the poachers, to give them the name accorded to them by the public generally, are styled Canadian, a large number hail from San Francisco, Seattle, Portland, and Port Townsend, in the United States; and many of those sailing from Victoria and Vancouver, British Columbia, under the British flag, are partly owned by American citizens.

The first schooner on record to enter the Behring's Sea in pursuit of seals was the American-owned "Santiago," of San Francisco, in 1879. It was not until the fall of 1883 that the "Favourite," with the present captain of the "Otto" on board, pioneered the way for the Canadian sealers. In 1884 there were only six schooners from San Francisco and Victoria combined that entered the sea. Year by year the seals have been driven further north, and each successive year has seen an increase in the number of poachers. Last year (1890) twenty-three schooners sailed from Victoria, and this year the number reported had increased out of all proportion.

Every port on the Pacific coast, from San Francisco to Victoria, appeared to have sent out its quota, and on the day the "Otto" left the latter place it was stated that fifty-three schooners were already on their way to the famous sealing grounds from that port. The "Victorian Colonist" gave the names and owners of that number, although afterwards found out there were over eighty-nine sealers in the sea this year.

It is hard to explain this large increase, in the face of both the American and British Governments proclaiming a close season. One reason given was that neither the Americans nor British cruisers intended to interfere, and that the Proclamation and sending of men-of-war to the sea were only done to satisfy the American public. Another reason is a most unaccountable one. Somehow the rumour gained currency that a bounty or compensation will be paid to the owner of every schooner that is stopped from sealing.

The Indians, with their spears, did not lose more than 1 per cent. of what they hit, as the fact of losing their game meant losing their harpoon and line as well. On the other hand, the Indians complained that the White hunters with their guns had scared the seals from the coast of the islands, and that they lose at the very least 20 per cent. of what they shoot and kill or wound, to eventually die. "A few years ago," said the Father, "the Chukelset Indians caught over 1,600 seals off the coast of the island in their canoes, but they cannot do that now. The guns of the White hunters have scared them all away."

"The seal," said Father Brabant, "is a most intelligent animal; they even wake the sleepers when they see danger approaching, and there is no doubt they have left our coast owing to the guns. Why, the Indians themselves used to have a law against the use of guns. Another thing that I cannot see the equity of," said the Father, "is that the American Company have been allowed 7,500 skins this year for the support of their Indians. If the Aleuts are to be supported, why should the Vancouver Indians be debarred from their chief source of livelihood. The Aleuts, as a fact, do not require the Company to look after them. If they were left

alone on their own islands, instead of being moved about as they are, they could hunt for themselves."

Father Brabant said he hardly knew how the future extermination of the seals was to be prevented, unless the two Governments were to take sealing under their supervision; that is, provided the Behring's Sea was not a closed sea. They could license sealers, restrict them as to the number of seals caught, and make a close season during the breeding time, as there was no doubt that large numbers of females bearing young were killed.

Wednesday, the 26th August, was a good sealing day, and I was for some hours out in the Indian canoe. The result of the day's work gives a fair example of the frightful percentage of seals that are killed and never recovered. The two boats and the canoe started out early in the forenoon and returned at six. The captain had one seal and had lost six others, either killed or wounded. Phillip, who was doing the shooting in the other boat, said that they had got up on to no less than seven seals and shot them, but they had all sunk. The men said the water was covered with blood, but they could not get the animals.

The two Indians, who used nothing but the spear, returned with ten. They had missed fifteen or twenty, but, as one of them philosophically remarked to the captain, "It does not matter, they are not hurt like with the gun, or killed, and they will do for another day or year." We managed to take sights this day, and found we were 75 miles west by north of the volcanoes on the peninsula. On the 27th and 28th August very little was done, as the weather was too rough for the boats to go out. Three seals were captured in the forenoon of the 27th before it came on to blow, when we were once again under storm trysail and double reefed foresail.

On the following day, the 28th, the boats were out all day and returned without catching anything, the captain thinking we were too far to the northward and eastward. He said he wanted the wind to get to the west. On the next day the boats were out the greater part of the day, and our catch for the day was seventeen seals. The captain brought in three, having lost four, killed or wounded. The other boat brought in three, having killed five, and the Indians ten, making a total of seventeen.

During the skinning of the seals on deck, which is always done at night after the boats return, the schooner's decks were covered on this occasion, as on many previous ones, not only with blood, but with large quantities of milk, showing that many seals that had been killed were nourishing their young at the time, the result being that the pups on the island would starve for want of nursing, as no seal will feed any young ones except her own.

HOW TO SAVE THE SEAL: A PLAN TO PREVENT ITS EXTERMINATION IN THE NEAR FUTURE.—At present the question of whether Behring's Sea is open waters or not is *in statu quo*. In the event, however, of its being declared a part of the high seas by the arbitration yet to be held, it would be absolutely necessary to propose a plan to prevent the future extermination of the seal, which there is little doubt would happen within a few years, unless some very strenuous measures are taken for its protection. The close season idea would hardly be practicable, as it is during the season of breeding that the lessees of the islands kill their seals, who are then found on the rookeries, and it is only during this season that the seals to any large extent are found there. Of course, on the islands they kill nothing but the young bulls. To make a close season for the open sea, and allow the seals to be killed on their breeding places, would be almost an impossibility.

The following plan, which I submitted to many of the largest fur-traders in both Victoria and San Francisco, the members of the Alaska Commercial Company—the late lessees of the island—as well as many of those who were absolutely employed in the hunting, seems to be the most feasible method of protecting the very necessary animals, which, perhaps, though they are a luxury, are still to a certain extent a necessity. The North American Commercial Company, who now lease the seal-breeding islands known as the Pribyloff group, pay the United States 100,000 dollars per year, and 9 dol. 62 c. per skin for everything they take from the island.

When there was no limit to the number of seals that they were allowed to kill, before the present *modus vivendi* was agreed upon between the United States and Great Britain, their payments brought into the American Government a revenue of about 300,000 dollars per year. This is a very small item in the revenue of such a great

nation, and it has been suggested that the Government of the United States shall refrain from leasing the Pribyloff Islands to any Company whatever; that no seals shall be killed on the rookeries, which shall be retained to allow the fur-bearing seal a safe breeding place.

On consideration of the United States refraining from leasing the islands, the right of doing which they would, of course, still legally retain, an international agreement could be entered into between the different nations, making it a criminal offence for any poacher to be found sailing within a prescribed distance of the island—say, from 60 to 80 miles around them—which would give female seals lots of space to feed in. Those to whom I suggested this solution, even although interested in sea schooners, said they would be perfectly willing to accept such a law, and that they could catch outside of the 80-mile limit sufficient seals to make seal-hunting as good a paying business as it was heretofore. In addition to this, it has been suggested that all sealing-schooners should be licensed, and any vessel found hunting the seal in Behring's Sea or outside of it without a licence should be seized, and no shooting should be allowed. The cost of maintaining cruizers to see that this was done would be very small, as there would be a very restricted area of the Behring's Sea to patrol. The above, of course, would only be feasible in the event of the sea being declared open, for if the Arbitration Committee rule that it is a closed sea, and belongs to the United States, of course all poachers would be liable to seizure.

No. 171.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received November 25.)

(Telegraphic.)

Washington, November 24, 1891.

I ADDRESSED a note to Mr. Blaine, as instructed by your Lordship's telegram of the 22nd instant, and this morning had a long interview with him. He has postponed the signing until he has referred the matter to the President and Cabinet, who sit to-day. Both reservations are objected to by him, especially the second, which he said imposed a new condition never before suggested during the negotiations. He said he would advise the President not to accept it.

I stated that your Lordship only desired to obviate doubts or differences at a later stage, and was most anxious for the arbitration. I repeated your Lordship's reasons for the reservation, and pointed out that it was only in the event of the Arbitrators, by their decision, proclaiming to the world that pelagic fishery was free to all flags that the question would arise. In that case we could not stultify ourselves by submitting to Regulations not obligatory on all.

Mr. Blaine then asked me what Her Majesty's Government would consent to do after the 1st May, pending the adhesion of the other Powers. Would a cessation of sealing be agreed to by them? I informed him, in reply, that I could not say what the action would be, but that probably the Regulations recommended by the Joint Commission or the Arbitrators, pending the result of the invitation to the Powers, would be voluntarily conformed to. Mr. Blaine then took my note with him to the President, and promised to send me a reply.

No. 172.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received November 28.)

(Telegraphic.)

Washington, November 27, 1891.

WITH reference to my telegram of the 24th instant, Mr. Blaine's reply has just been received. Copy transmitted by post. It is to the following effect:—

[See Inclosure in Sir J. Pouncefote's despatch of the 27th November:
Inclosure in No. 179, *infra*.]

The Marquis of Salisbury to Sir J. Pouncefote.

(Telegraphic.)

Foreign Office, November 29, 1891.

I HAVE received your telegram of the 27th instant.

Mr. Blaine's statement, in his note of which you report the receipt, that my first reservation is unnecessary answers the end which that reservation was intended to answer, and it may, therefore, be waived. I did not by my second reservation intend to propose that the practical execution of the Regulations should be delayed, but that the two Governments should protect themselves from being placed at the mercy of some third Power, which, if not pledged to observe the Regulations, might step in and secure the fishery at the times and places where the United States and England would bind themselves by their Agreement to abstain from it. It is necessary that some precaution should be taken in this direction, otherwise the vessels, both British and American, at present engaged in sealing, might all, by simply procuring a Russian register, recover their entire freedom.

I should, therefore, wish you to ascertain whether the United States' Government would be prepared to agree to some provision of the following nature:—

If, after the expiration of one year from the date of any decision of the Arbitrators as to the necessity of concurrent Regulations, it should appear to either of the two Powers that such Regulations are being violated under the flag of a third Power, to the serious injury of the fishery, the complaining Power shall have the right to give notice that the Regulations will be suspended during the ensuing year, until arrangements are made by which the evil can be remedied. If, however, there should be any difference of opinion between the United States and Great Britain as to the fact that serious injury is being done to the fishery, or as to any other fact involved, such difference may be decided by referring the matter to the arbitration of two Admirals, one of the British and the other of the United States' navy, who may choose an Umpire in case they are unable to agree.

No. 174.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received December 3.)

My Lord,

Washington, November 23, 1891.

WITH reference to your Lordship's telegram of yesterday, I have the honour to inclose herewith copy of a note which I have this day addressed to Mr. Blaine, stating the two reservations which your Lordship desires to make in regard to clause 6 of the Behring's Sea Arbitration Agreement.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure in No. 174.

Sir J. Pouncefote to Mr. Blaine.

Sir,

Washington, November 23, 1891.

I INFORMED the Marquis of Salisbury of our proposal to sign the text of the seven Articles to be inserted in the Behring's Sea Arbitration Agreement and of the Joint Commission Article, as settled in the diplomatic correspondence, in order to record the progress made up to the present time in the negotiation.

Lord Salisbury entirely approves of that proposal, but he has instructed me, before signing, to address a note to you for the purpose of obviating any doubts which might arise as to the meaning and effect of Article VI, which is as follows:—

"If the determination of the foregoing questions as to the exclusive jurisdiction of the United States shall leave the subject in such position that the concurrence of Great Britain is necessary to the establishment of Regulations for the proper protection and the preservation of the fur-seal in, or habitually resorting to, the Behring's Sea, the Arbitrators shall then determine what concurrent Regulations outside the jurisdictional limits of the respective Governments are necessary, and over what waters such Regulations should extend; and to aid them in that determination the Report of the Joint Commission to be appointed by the respective Governments shall be laid before

them, with such other evidence as either Government may submit. The Contracting Powers furthermore agree to co-operate in securing the adhesion of other Powers to such Regulations."

Lord Salisbury desires to make the following two reservations on the above Article:—

His Lordship understands, first, that the necessity of any Regulations is left to the Arbitrators, as well as the nature of those Regulations, if the necessity is in their judgment proved; secondly, that the Regulations will not become obligatory on Great Britain and the United States until they have been accepted by the other Maritime Powers, otherwise, as his Lordship observes, the two Governments would be simply handing over to others the right of exterminating the seals.

I have no doubt that you will have no difficulty in concurring in the above reservations, and, subject thereto, I shall be prepared to sign the Articles as proposed.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 175.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received December 4.)

(Telegraphic.)

Washington, December 3, 1891.

I RECEIVED last night a reply to my note of the 1st instant to Mr. Blaine, containing the substance of your Lordship's telegram of the 29th ultimo, copy of which was forwarded in my despatch of the same date.

It is to the following effect:—

The President of the United States is unable to see danger of a third Power engaging in fishery regardless of Regulations. The dispute has been in progress more than five years. During all that time no European nation has engaged in sealing while Great Britain was maintaining that Behring's Sea was open to all commerce. A German vessel once appeared, but never returned, presumably finding sealing there unsuccessful on account of great distance. Russia will not dissent, because such dissent would put to hazard her own sealing property in Behring's Sea. On the contrary, she will sustain and strengthen whatever Agreement Great Britain and United States may conjointly ordain. President therefore thinks your Lordship's apprehensions not well grounded, but he believes that whatever may be the issue of the arbitration, "it will be wise for the two Governments to unite in a note to the principal Powers of Europe advising them in full of what has been done, and confidently asking their approval. He does not believe, with full explanation, any attempt will be made to disturb the Agreement. If, contrary to his firm belief, the Agreement shall be disturbed by the interference of a third Power, Great Britain and United States can act conjointly, and they can then far better agree on what measure may be necessary to prevent the destruction of the seals than they can at this time."

President hopes that the arbitration "will be allowed to proceed on the Agreement regularly and promptly. It is of great consequence to both nations that the dispute be ended, and that no delay be caused by introducing new elements into the Agreement to which both nations have given their consent."

No. 176.

The Behring's Sea Commissioners to the Marquis of Salisbury.—(Received December 5.)

My Lord,

Government House, Ottawa, November 25, 1891.

WE have the honour to acknowledge the receipt of your Lordship's despatch of the 30th ultimo, inclosing a copy of a despatch from Her Majesty's Minister at Washington, transmitting correspondence with the United States' Government regarding the number of seals killed on the Pribyloff Islands during the season of 1891 in excess of 7,500, and inviting from us any further observations we may desire to offer on the subject.

2. We notice that in the said despatch, Sir Julian Pouncefote has given a complete answer to many of the points in Mr. Wharton's letter of the 10th October. We

would venture, however, to add some observations, the outcome of our special inquiry, in case the question is pursued further.

3. We would point out that the frequent references in Mr. Wharton's letter to "killing for food" are altogether beside the question. All skins of such seals, if of proper size and condition, are accepted by the lessees, and are always included in their annual quota, while much of the flesh is taken for the sustenance of the natives. But the 7,500 limit was fixed as a sufficient number of skins to cover the cost of the care and sustenance of the natives, as indeed was acknowledged by the Treasury Agent, who, as reported by Mr. Wharton, called upon the lessees to bring in a sufficient supply of beef to carry the natives through the winter, although it might have been added that this beef would be purchased by the Government, and by them distributed to the natives.

4. We observe that Mr. Wharton points out that the Treasury Agent had reported that up to the 2nd July, 9,012 seals had been killed. He does not explain that by the 20th June, killing had been stopped on the expressed plea that the 7,500 limit had been reached.

5. Mr. Wharton points out that Major Williams consulted several American gentlemen, including the two United States' Commissioners and the Senior Naval Officer, as to the correctness of his decision as to when the 7,500 limit was to be applied. We were informed that none of these gentlemen had seen the previous correspondence on the subject, so that their advice was merely on the facts as presented to them on the spot.

6. We could do no more than explain to the Agent that the Proclamation, correct as it might be in itself, did not contain the whole case. Neither Major Williams nor any of the American gentlemen he consulted had any information or instructions enabling them to understand the conditions to which the United States had previously agreed, and which were eventually embodied in the *modus vivendi* of the 5th June.

7. Both Professor Mendenhall and Dr. Merriam at the first expressed to us their decided agreement with us in the opinion that the 7,500 limit must not be exceeded. It was only at a second chance interview that they explained that after looking into the question, they saw that the period could only begin on the 15th June.

8. From this view we entirely dissented, as recorded in our letter to Major Williams of the 30th July, a copy of which was inclosed in our despatch of the 5th August last.

9. In regard to the phrase "the catch this season" in our letter to Major Williams above mentioned, this was intended to include the same period as that covered in Mr. Blaine's letter of the 4th May, 1891, to Sir Julian Pauncefote, in which Mr. Blaine says: "If the Company shall . . . be deprived of all privilege of taking seals, they certainly could not be compelled to minister to the wants of these 300 inhabitants for an entire year. . . . In this exigency the President proposes to concede to the North American Company the right to take a sufficient number of seals, and no more than sufficient, to recompense them for their outlay in taking care of the natives. . . . The Secretary of the Treasury after full consideration has limited the number to 7,500, to repay them for the outlay demanded for the support of the 300 people on the Pribiloff Islands."

10. We do not understand that the United States' Government in any way indorse the action of the Treasury Agent, who, as we have already pointed out, acted in perfect good faith, but was without the necessary instructions.

11. We presume that all the skins taken this year in excess of 7,500 will be held over for next year's quota, inasmuch as if sold for the account of the Company this year they would provide funds very much "more than sufficient to recompense them for their outlay in taking care of the natives" for this entire year, which would be in direct contravention of the expressed intentions and wishes of the President of the United States.

We have, &c.

(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

No. 177.

The Marquis of Salisbury to Sir J. Pouncefote.

Sir,

Foreign Office, December 5, 1891.

I HAVE received your despatch of the 23rd ultimo, inclosing copy of a note which, in compliance with instructions contained in my telegram of the 22nd ultimo, you have addressed to Mr. Blaine, setting forth the two reservations made by Her Majesty's Government with regard to clause 6 of the Behring's Sea Arbitration Agreement.

I have to state, in reply, that the note addressed by you to Mr. Blaine is approved by Her Majesty's Government.

I am, &c.
(Signed) SALISBURY.

No. 178.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received December 7.)

My Lord,

Washington, November 27, 1891.

WITH reference to my telegram of the 24th instant, I have the honour now to report in greater detail what took place at the interview which I had with Mr. Blaine on that day respecting the two reservations which your Lordship instructed me to make before signing the clauses for insertion in the Behring's Sea Agreement.

Mr. Blaine, who had before him the note which I had addressed to him on the subject, and of which I transmitted a copy to your Lordship in my despatch of the 23rd instant, took exception to both reservations, which he said he could not advise the President to accept. I said that these reservations imposed no new conditions whatever, and were intended simply to obviate any doubt as to the meaning and effect of the 6th clause, and thus to prevent any disagreement at a later stage.

Mr. Blaine asked what was the object of the first reservation. I replied that the 6th clause appeared to me to imply that Regulations for the control of pelagic sealing were necessary—a proposition which was opposed to the contention of Canada—and I presumed that it was on that ground that your Lordship desired to make it clear that it would be open to the Arbitrators to hold that no such Regulations at all were necessary.

Mr. Blaine observed that he did not think the language of the clause precluded such a finding. He proceeded to express the strongest objection to the second reservation, which he said was calculated to wreck the whole arrangement. How many maritime Powers, he asked, were to be invited to adhere to the Regulations? What prospect was there of obtaining their adhesion, seeing that they had declined the invitation of Mr. Bayard to join in an international arrangement for the protection of the fur-seal fisheries? It had never been suggested before in the course of the negotiations that the Regulations to be framed should not be obligatory on the two Governments until they had received the adhesion of the other Powers. What were Her Majesty's Government prepared to do pending such adhesion? Would they consent to a cessation of pelagic sealing? To these questions I replied that if, after a careful investigation and study by the Joint Commission, it should be established by the Commission, or, in case of disagreement, by the arbitration, that certain Regulations are necessary for the preservation of the seal species, it would be unreasonable to doubt that the Great Powers would acquiesce at once in those Regulations, or that the minor Powers would hesitate to follow their example.

I pointed out that no International Regulations would be made unless the award of the Arbitrators should have previously proclaimed to the world that the fur-seal fishery in Behring's Sea is free to all flags. In that case, if the other Powers were, as Mr. Blaine apprehended, to refuse their adhesion to the Regulations, the result would be, in the words of your Lordship, that the two Governments most interested had simply handed over to others the right of exterminating the seals. Her Majesty's Government could hardly be expected to place themselves in such a position. They could not stultify themselves by submitting permanently or for any length of time to Regulations which were not equally obligatory on other Governments. What they would do, pending the adhesion of the Powers, I was not prepared to say, but I thought it probable that they would voluntarily observe the Regulations pending the

result of the invitation of Great Britain and the United States to the Powers, or so long as circumstances, in their judgment, might render it practicable.

Mr. Blaine said he would send a reply to my note after laying the matter before the President and the Cabinet which was then sitting, and, in the meanwhile, the signature of the clauses was postponed.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 179.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received December 7.)*

My Lord,

Washington, November 27, 1891.

IN my despatch of the 23rd instant I transmitted a copy of the note which I addressed to Mr. Blaine, informing him of the reservations which your Lordship had instructed me to make respecting clause 6 of the proposed Behring's Sea Arbitration Agreement, before signing the text of the seven clauses as settled in the diplomatic correspondence.

I now have the honour to inclose a copy of Mr. Blaine's reply to that note, which I received to-day.

He appears to attach some weight to the fact of my having left with him, at his request, a paper containing the text of the seven clauses as they appear in my copy of the diplomatic correspondence, and which I had caused to be prepared for the purpose of comparison and verification. He had himself handed me a few days before, and for the same purpose, a similar paper containing the text of the clauses taken from his copy of the diplomatic correspondence.

I am at a loss to understand how that exchange of courtesies, which is a common practice under similar circumstances, can possibly affect the questions under consideration.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure in No. 179.

Mr. Blaine to Sir J. Pauncefote.

Sir,

Department of State, Washington, November 27, 1891.

IN the early part of last week you furnished the exact points which had been agreed upon for Arbitration in the matter of the Behring's Sea negotiation. You called later, and corrected the language which introduced the agreement. In fact, the two copies framed were taken entirely from your Minutes. It was done with a view that you and I should sign them, and thus authenticate the points for the Arbitrators to consider.

You inform me now that Lord Salisbury asks to make two reservations in the 6th Article. His first reservation is that "the necessity of any Regulation is left to the Arbitrators as well as the nature of those Regulations, if the necessity is in their judgment proved."

What reason has Lord Salisbury for altering the text of the Article to which he had agreed? It is to be presumed that if Regulations are needed they will be made. If they are not needed, the Arbitrators will not make them. The agreement leaves the Arbitrators free upon that point. The first reservation, therefore, has no special meaning.

The second reservation which Lord Salisbury makes is that "the Regulations shall not become obligatory on Great Britain and the United States until they have been accepted by the other Maritime Powers." Does Lord Salisbury mean that the United States and Great Britain shall refrain from taking seals until every Maritime Power joins in the Regulations? Or does he mean that sealing shall be resumed on the 1st May next, and that we shall proceed, as before the arbitration, until the Regulations have been accepted by the other "Maritime Powers"?

"Maritime Powers" may mean one thing or another. Lord Salisbury did not say the principal maritime Powers. France, Spain, Portugal, Italy, Austria, Turkey, Russia, Germany, Sweden, Holland, Belgium are all Maritime Powers in the sense that they maintain a navy, great or small. In like manner, Brazil, the Argentine Confederation, Chile, Peru, Mexico, and Japan are Maritime Powers. It would require a long time, three years at least, to get the assent of all these Powers. Mr. Bayard, on the 19th August, 1887, addressed Great Britain, Germany, France, Russia, Sweden and Norway, and Japan, with a view to securing some Regulations in regard to the seals in Behring's Sea. France, Japan, and Russia replied with languid indifference. Great Britain never replied in writing. Germany did not reply at all. Sweden and Norway said that the matter was of no interest to them. Thus it will be again. Such a proposition will postpone the matter indefinitely.

The President regards Lord Salisbury's second reservation, therefore, as a material change in the terms of the arbitration agreed upon by this Government, and he instructs me to say that he does not feel willing to take it into consideration. He adheres to every point of agreement which has been made between the two Powers, according to the text which you furnished. He will regret if Lord Salisbury shall insist on a substantially new agreement. He sees no objection to submitting the agreement to the principal Maritime Powers for their assent, but he cannot agree that Great Britain and the United States shall make their adjustment dependent on the action of third parties who have no direct interest in the seal fisheries, or that the settlement shall be postponed until those third parties see fit to act.

I have, &c.

(Signed) JAMES G. BLAINE.

No. 180.

The Marquis of Salisbury to Sir J. Pouncefote.

(Telegraphic.)

Foreign Office, December 7, 1891.

I HAVE received your telegram of the 4th instant.

The President of the United States does not, I think, rightly understand the exact nature of the danger against which I think it necessary to make provision.

Her Majesty's Government do not fear that Regulations which have been made by the Arbitrators will be rejected by any of the Maritime Powers; but they think there is much ground for apprehension that those Powers may refuse to accept Treaties framed for the purpose of enabling our cruisers to arrest ships which are violating the Regulations while sailing under their flag. It must be expected that, under these circumstances, sealing will be pursued under their flags during the close times.

In signing the proposed Agreement, it certainly is not the intention of the two Powers to arrive at such a result. But should you find, after making a representation in the above sense, that the President continues to hold the opinion that the danger I have indicated is too remote to justify our incurring delay by guarding against it now, Her Majesty's Government are willing to yield to his appeal, and will not at this stage press for further discussion of the point. In that case, you are authorized to sign the Agreement as already settled.

Her Majesty's Government will, of course, retain their right of raising the point before the Arbitrators when the time arrives for determining the question of the Regulations; and it is understood that full discretion will be vested in the Arbitrators to attach to any Regulations they may decide upon such conditions as, in view of this difficulty, they may judge to be necessary and just to the interests of this country and of the United States.

No. 181.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received December 9.)

My Lord,

Washington, December 1, 1891.

I HAVE the honour to inclose copy of a note which, on receipt of your Lordship's telegram of the 29th ult., I addressed to the Secretary of State in reply

to his note of the 27th ultimo, objecting to reservations which Her Majesty's Government desire to make with respect to the 6th clause of the proposed Behring's Sea Arbitration Agreement.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

Inclosure in No. 181.

Sir J. Pauncefote to Mr. Blaine.

Sir,

Washington, December 1, 1891.

I COMMUNICATED by telegram to the Marquis of Salisbury the substance of your note of the 27th ultimo respecting the two reservations which Her Majesty's Government desire to make in relation to the 6th clause of the proposed Behring's Sea Arbitration Agreement, as stated in my note of the 23rd ultimo, and I have now the honour to inform you that I have received a reply from his Lordship to the following effect.

As regards the first reservation, Lord Salisbury observes that the statement contained in your note, that the clause leaves the Arbitrators free to decide whether Regulations are needed or not, assures the same end as the proposed reservation, which therefore becomes unnecessary, and may be put aside.

With respect to the second reservation, his Lordship states that it was not the intention of Her Majesty's Government to defer putting into execution any Regulations which the Arbitrators may prescribe. Its object is to prevent the fur-seal fishery in Behring's Sea from being placed at the mercy of some third Power. There is nothing to prevent such third Power (Russia, for instance, as the most neighbouring nation), if unpledged, from stepping in and securing the fishery at the very seasons and in the very places which may be closed to the sealers of Great Britain and the United States by the Regulations. Great circumspection is called for in this direction, as British and American sealers might recover their freedom, and evade all Regulations by simply hoisting the flag of a non-adhering Power.

How is this difficulty to be met? Lord Salisbury suggests that, if after the lapse of one year from the date of the decree of Regulations it shall appear to either Government that serious injury is occasioned to the fishery from the causes above mentioned, the Government complaining may give notice of the suspension of the Regulations during the ensuing year, and in such case the Regulations shall be suspended until arrangements are made to remedy the complaint.

Lord Salisbury further proposes that, in case of any dispute arising between the two Governments as to the gravity of the injury caused to the fishery, or as to any other fact, the question in controversy shall be referred for decision to a British and an American Admiral, who, if they should be unable to agree, may select an Umpire.

Lord Salisbury desires me to ascertain whether some provision of the above nature would not meet the views of your Government.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

No. 182.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received December 11.)

(Telegraphic.)

Washington, December 10, 1891.

IMMEDIATELY on receipt of your Lordship's telegram of the 7th instant relative to Behring's Sea I addressed a note to Mr. Blaine, as instructed, in the sense of the first part of the telegram above mentioned, concluding with the words "at such a result."

I referred to a previous conversation which I had held with him on the same subject, and added that I did not understand him to deny my contention that if the arrangement arrived at between the two Governments were, as your Lordship apprehended, violated by ships under foreign flags, to the serious injury of the seal-fishery, the Agreement must in that case collapse, as the two Governments could not be expected to enforce the Regulations on their nationals while such violations were taking place. For these reasons I expressed the hope that, on further consideration, the President would recognize the

importance of arriving at some understanding of the nature suggested by your Lordship.

I have to-day received a reply from Mr. Blaine to the following effect (see inclosure in Sir J. Pouncefote's despatch of the 10th December).

Shall I now reply to Mr. Blaine in the sense of the second part of your Lordship's telegram above mentioned, and offer to sign the Agreement, subject to the reservation and understanding set forth in the last paragraph?

I await your Lordship's instructions.

No. 183.

The Marquis of Salisbury to Sir J. Pouncefote.

(Telegraphic.)

Foreign Office, December 11, 1891.

IN reply to the inquiry in the last paragraph of your telegram of the 10th instant, I have to inform you that you are authorized to sign the Articles providing for the Behring's Sea Arbitration and Joint Commission, as already settled, subject to the understanding explained in my telegram of the 7th instant.

No. 184.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received December 15.)

(Telegraphic.)

Washington, December 14, 1891.

I ADDRESSED a note to Mr. Blaine on receipt of your Lordship's telegram of the 11th instant, as proposed in the last paragraph of my telegram of the 10th instant.

Following reply has just been received:—

[See Inclosure 1 in Sir J. Pouncefote's despatch of December 15: Inclosure 1 in No. 192, *infra*.]

I will of course let Mr. Blaine know that, pending further instructions, I cannot sign.

No. 185.

The Marquis of Salisbury to Sir J. Pouncefote.

(Telegraphic.)

Foreign Office, December 16, 1891.

I HAVE received your telegram of yesterday.

Owing to the difficulties of carrying on negotiations by telegraphic communication, I am afraid that the President of the United States has imperfectly understood my meaning.

At his request I have consented to defer any further discussion for the present as to the course to be pursued in the event of the Regulations determined on by the Arbitrators for the preservation of the seal species being evaded by means of a change of flag.

It was necessary in so doing that I should guard myself against the supposition of having narrowed by that consent the rights which accrue to the litigants or the Arbitrators under the Arbitration Agreement. But I did not, as the President appears to think, make a reservation in my last communication, or use that word. That a reservation may be operative in respect to an Agreement, it must have the assent of both parties to that Agreement, and I have not asked for any such assent in the present instance of the United States' Government.

I am in entire accord with the President in objecting to the submission of any points to the Arbitrators which the Agreement does not embrace.

Whenever Mr. Blaine is willing to do so you are authorized to sign the Agreement.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received December 17.)

(Telegraphic.)

Washington, December 17, 1891.

YOUR Lordship's telegram of yesterday received last night.

I am addressing a note to Mr. Blaine in that sense, and expressing my willingness to sign.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received December 18.)

(Telegraphic.)

Washington, December 18, 1891.

I HAVE the honour to report, with reference to my telegram of yesterday, that Mr. Blaine and I signed this morning the text of the seven Articles to be inserted in the Behring's Sea Arbitration Convention, and also the text of the Joint Commission Article.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received December 19.)

My Lord,

Washington, December 10, 1891.

ON receipt of your Lordship's telegram of the 4th instant I sought an interview with Mr. Blaine. Owing to the pressure of business connected with the opening of Congress, I was unable to see him until the morning of the 8th, when I had a long discussion with him at the State Department on the subject of his note of the 2nd instant respecting the 6th Article of the proposed Behring's Sea Arbitration Agreement. I pointed out to him that the danger which your Lordship apprehended was not so much from the non-acceptance by other Governments of the Fishery Regulations as from the practical difficulty of enforcing them without the power being given to British and American cruisers of arresting vessels under foreign flags found to be violating the Regulations. That was a power which foreign Governments would be unlikely to grant in view of the jealousy which exists respecting the right of search on the high seas. If your Lordship's apprehensions should be realized to such an extent as to cause serious injury to the fishery, the Agreement must necessarily collapse, as it could not be expected that either Government should continue to enforce on its nationals Regulations which were being violated with impunity under foreign flags.

Mr. Blaine readily admitted that in such case there would be an end of the Agreement, and said that every one would then be free to go in and make havoc of the seal fishery; but he persisted in treating it as a most remote contingency. He deprecated making arrangements to meet the evil before it arose, and thought the mere suggestion of such interference by other Powers would be mischievous. The point had not been raised before, and he could not understand why it should be introduced at this late hour when we were on the point of signing the Agreement.

I replied that the difficulty of protecting the seal fishery otherwise than on the basis of an international agreement among all the Powers had been repeatedly pointed out in the press of both countries, and by every writer on the subject. It was, indeed, admitted by the last paragraph of the 6th Article itself, whereby the two Governments agreed to invite the adhesion of the other Powers to the Regulations. Even if the contingency in view were so remote, as Mr. Blaine contended, I could not see what harm it could do to have such understanding as that suggested by your Lordship, and proposed in my note of the 1st instant, which would provide for the case of any difference of opinion arising as to the gravity of the injury caused to the fishery by the violation of the Regulations under foreign flags.

Mr. Blaine said that he could not consent to add a new term to the 6th Article as already agreed to after so much correspondence and discussion.

I replied that there could be no agreement if the two Governments were not *ad idem* as to its meaning. The arrangement proposed by your Lordship was in no way inconsistent with the 6th Article. It was merely intended to make it clearer, and to regulate

the action of the two Governments in certain events which might cause difficulties hereafter.

Mr. Blaine, however, insisted that it would be time enough to deal with those difficulties if and when they should arise.

I then brought the interview to a close, and on the same day I addressed a note to Mr. Blaine, of which a copy is transmitted herewith.

I received this day a reply thereto, of which I have the honour to inclose a copy.

This correspondence does not carry the matter any further, but it places on record the fact that while the United States' Government admit that the proposed Regulations may be rendered nugatory by their violation under the flags of other Powers, they decline the reasonable proposal of Her Majesty's Government to settle beforehand the conditions under which the Regulations shall be deemed to have lapsed or to be suspended.

The conclusion would seem to be that each Government will be free to form its own judgment of the situation, and to take such action as it shall think fit under the circumstances.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

Inclosure 1 in No. 188.

Mr. Blaine to Sir J. Pauncefote.

Sir,

Department of State, Washington, December 2, 1891.

I HAVE attentively read your note of the 1st instant, and submitted it to the President. The President is unable to see the danger which Lord Salisbury apprehends, of a third nation engaging in taking seals regardless of the Agreement between Great Britain and the United States. The dispute between the two nations has now been in progress for more than five years. During all that time, while Great Britain was maintaining that the Behring's Sea was open to all comers, at any time, as of no other European nation has engaged in sealing.

A German vessel once made its appearance in Behring's Sea, but did not return, being satisfied, I suppose, that at the great distance they have to sail, the Germans could not successfully engage in sealing. Russia, whose interference Lord Salisbury seems to specially apprehend, will not dissent from the Agreement, because such dissent would put to hazard her own sealing property in the Behring's Sea. On the contrary, we may confidently look to Russia to sustain and strengthen whatever agreement Great Britain and the United States may conjointly ordain.

It is the judgment of the President, therefore, that the apprehension of Lord Salisbury is not well grounded. He believes that, however the arbitration between Great Britain and the United States may terminate, it will be wise for the two nations to unite in a note to the principal Powers of Europe, advising them in full of what has been done and confidently asking their approval. He does not believe that, with a full explanation, any attempt will be made to disturb the Agreement. If, contrary to his firm belief, the Agreement shall be disturbed by the interference of a third Power, Great Britain and the United States can act conjointly, and they can then far better agree upon what measure may be necessary to prevent the destruction of the seals than they can at this time.

The President hopes that the arbitration between Great Britain and the United States will be allowed to proceed on the Agreement regularly and promptly. It is of great consequence to both nations that the dispute be ended, and that no delay be caused by introducing new elements into the Agreement to which both nations have given their consent.

I have, &c.
(Signed) JAMES G. BLAINE.

Inclosure 2 in No. 188.

Sir J. Pauncefote to Mr. Blaine.

Sir,

Washington, December 8, 1891.

THE Marquis of Salisbury, to whom I telegraphed the contents of your note of the 2nd instant on the subject of the 6th Article of the proposed Behring's Sea Arbitration

Agreement, is under the impression that the President has not rightly understood his Lordship's apprehension with reference to the Regulations to be made by the Arbitrators under that Article. His fear is, not that the other Powers will reject the Regulations, but that they will refuse to allow the arrest by British and American cruisers of ships under their flag which may engage in the fur-seal fishery in violation of the Regulations. Such refusal is highly probable in view of the jealousy which exists as to the right of search on the high seas; and the consequence must inevitably be that, during the close season, sealing will go on under other flags.

It cannot be the intention of the two Governments, in signing the proposed Agreement, to arrive at such a result. I do not understand you to dispute that, should such a state of things arise, the Agreement must collapse, as the two Governments could not be expected to enforce on their respective nationals Regulations which are violated under foreign flags to the serious injury of the fishery. I hope, therefore, that, on further consideration, the President will recognize the importance of arriving at some understanding of the kind suggested in my note of the 1st instant.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure 3 in No. 188.

Mr. Blaine to Sir J. Pauncefote.

Sir,
IN reply to your note of the 8th instant, I have the following observations to make:—

1. Ever since the Behring's Sea question has been in dispute (now nearly six years), not one ship from France or Germany has ever engaged in sealing. This affords a strong presumption that none will engage in it in the future.

2. A still stronger ground against their taking part is that they cannot afford it. From France or Germany to Behring's Sea by the sailing lines is nearly 20,000 miles, and they would have to make the voyage with a larger ship than can be profitably employed in sealing. They would have to start from home the winter preceding the sealing season and risk an unusually hazardous voyage. When they reach the fishing grounds they have no territory to which they could resort for any purpose.

3. If we wait until we get France to agree that her ships shall be searched by American or British cruisers we will wait until the last seal is taken in Behring's Sea.

Thus much for France and Germany. Other European countries have the same disabilities. Russia, cited by Lord Salisbury as likely to embarrass the United States and England by interference, I should regard as an ally, and not an enemy. Nor is it probable that any American country will loan its flag to vessels engaged in violating the Behring's Sea Regulations.

To stop the arbitration a whole month on a question of this character promises ill for its success. Some other less important question even than this, if it can be found, may probably be started. The effect can only be to exhaust the time allotted for arbitration. We must act mutually on what is probable, not on what is remotely possible.

The President suggests again that the proper mode of proceeding is for Regulations to be agreed upon between the United States and Great Britain, and then submitted to the principal Maritime Powers. That is an intelligent and intelligible process. To stop now to consider the Regulations for outside nations is to indefinitely postpone the whole question. The President, therefore, adheres to his ground first announced, that we must have the arbitration as already agreed. He suggests to Lord Salisbury that any other process might make the arbitration impracticable within the time specified.

I have, &c.

(Signed) JAMES G. BLAINE.

No. 189.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received December 19.)

(Extract.)

Washington, December 10, 1891.

I HAVE the honour to inform your Lordship that, in alluding to the Behring's Sea question, the President's Message states that he is glad to be able to announce that

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terms of arbitration satisfactory to the United States' Government have been arrived at, and that an agreement as to the Arbitrators is all that is necessary to the completion of the Convention. He also adds that, "in view of the advanced position which this Government has taken upon the subject of international arbitration, this renewed expression of our adherence to this method for the settlement of disputes such as have arisen in the Behring's Sea will, I doubt not, meet with the concurrence of Congress."

No. 190.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received December 19.)

My Lord,

Washington, December 11, 1891.

WITH reference to your Lordship's telegram of to-day, I have the honour to inclose copy of a note which I have addressed to Mr. Blaine in the sense of the second part of your Lordship's telegram of the 7th instant, offering to sign the Behring's Sea Arbitration Agreement and Joint Commission Article on the understanding mentioned in that telegram.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

Inclosure in No. 190.

Sir J. Pauncefote to Mr. Blaine.

Sir,

Washington, December 11, 1891.

I HAVE the honour to inform you that I telegraphed to the Marquis of Salisbury the substance of your note of yesterday respecting the 6th Article of the proposed Behring's Sea Arbitration Agreement, and that I have received a reply from his Lordship to the following effect:—

In view of the strong opinion of the President, reiterated in your note of yesterday, that the danger apprehended by Lord Salisbury, and explained in my note of the 8th instant, is too remote to justify the delay which might be incurred by guarding against it now, his Lordship will yield to the President's appeal, and not press for further discussion at this stage.

Her Majesty's Government of course retain the right of raising the point when the question of framing the Regulations comes before the Arbitrators, and it is understood that the latter will have full discretion in the matter, and may attach such conditions to the Regulations as they may *à priori* judge to be necessary and just to the two Powers, in view of the difficulty pointed out.

With the above observation Lord Salisbury has authorized me to sign the text of the seven Articles and of the Joint Commission Articles referred to in my note of the 23rd ultimo, and it will give me much pleasure to wait upon you at the State Department for that purpose at any time that you may appoint.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

No. 191.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received December 23.)

(Telegraphic.)

Washington, December 22, 1891.

THE question of the number of Arbitrators was reopened to-day by Mr. Blaine.

He stated that he was of opinion, as was also the President, that seven was too large a number, and that it would suffice, as three are to be appointed by foreign Governments, if the United States and Great Britain should each appoint one. He was anxious that the above consideration should be urged on your Lordship, and he expressed the hope that efforts might be made to expedite as much as possible the remaining arrangements.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received December 28.)

My Lord,

Washington, December 15, 1891.

WITH reference to my telegram of yesterday, I have the honour to inclose copy of a note which I have received from Mr. Blaine, in which he states that the President objects to your Lordship making any reservation at all in regard to the Behring's Sea Arbitration Agreement; together with a copy of the reply which I have returned thereto.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure 1 in No. 192.

Mr. Blaine to Sir J. Pouncefote.

Sir,

Department of State, Washington, December 14, 1891.

I HAVE the honour to advise you that I submitted your note of the 11th instant to the President. After mature deliberation, he has instructed me to say that he objects to Lord Salisbury making any reservation at all, and that he cannot yield to him the right to appeal to the Arbitrators to decide any point not embraced in the Articles of Arbitration. The President does not admit that Lord Salisbury can reserve the right in any way to affect the decision of the Arbitrators. We understand that the arbitration is to proceed on the seven points which are contained in the Articles which you and I certify were the very points agreed upon by the two Governments.

For Lord Salisbury to claim the right to submit this new point to the Arbitrators is to entirely change the arbitration. The President might, in like manner, submit several questions to the Arbitrators, and thus enlarge the subject to such an extent that it would not be the same arbitration to which we have agreed. The President claims the right to have the seven points arbitrated, and respectfully insists that Lord Salisbury shall not change their meaning in any particular. The matters to be arbitrated must be distinctly understood before the Arbitrators are chosen. And, after an arbitration is agreed to, neither of the parties can enlarge or contract its scope.

I am prepared now, as I have been heretofore, to sign the Articles of Agreement without any reservation whatever, and for that purpose I shall be glad to have you call at the State Department on Wednesday, the 16th instant, at 11 o'clock A.M.

I have, &c.

(Signed) JAMES G. BLAINE.

Inclosure 2 in No. 192.

Sir J. Pouncefote to Mr. Blaine.

Sir,

Washington, December 15, 1891.

I HAVE the honour to acknowledge the receipt of your note of yesterday's date, in reply to mine of the 11th instant, respecting the signature of the seven Articles of the proposed Behring's Sea Arbitration Agreement therein referred to.

I will transmit a copy of that reply to the Marquis of Salisbury by to-day's mail, but I beg to state that, pending his Lordship's further instructions, it is not in my power to proceed to the signature of the Articles in question, as proposed at the close of your note.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received December 28.)

My Lord,

Washington, December 18, 1891.

IMMEDIATELY on receipt of your Lordship's telegram of the 16th instant I addressed a note to Mr. Blaine, of which I have the honour to inclose a copy, and I delivered it to him in person yesterday.

After reading it, he at once made an appointment for this morning at 11 to sign the text of the seven Articles of the Behring's Sea Arbitration Agreement and of the Joint Commission Agreement, as settled in the diplomatic correspondence.

Accordingly, I proceeded to the State Department at the appointed time, and, after the usual verification, the document was signed in duplicate by Mr. Blaine and myself.

I shall have the honour to transmit a copy of it to your Lordship by this mail in a separate despatch.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure in No. 193.

Sir J. Pauncefote to Mr. Blaine.

Sir,

Washington, December 17, 1891.

I HAVE the honour to inform you that I conveyed to the Marquis of Salisbury, by telegram, the substance of your note of the 14th instant respecting the 6th Article of the proposed Behring's Sea Arbitration Agreement, and that I have received a reply from his Lordship in the following sense.

Lord Salisbury is afraid that, owing to the difficulties incident to telegraphic correspondence, he has been imperfectly understood by the President. He consented, at the President's request, to defer for the present all further discussion as to what course the two Governments should follow in the event of the Regulations prescribed by the Arbitrators being evaded by a change of flag. It was necessary that, in doing so, he should guard himself against the supposition, that by such consent he had narrowed the rights of the contending parties or of the Arbitrators under the Agreement. But in the communication which was embodied in my note of the 11th instant, his Lordship made no reservation, as the President seems to think, nor was any such word used. A reservation would not be valid unless assented to by the other side, and no such assent was asked for. Lord Salisbury entirely agrees with the President in his objection to any point being submitted to the Arbitrators which is not embraced in the Agreement, and, in conclusion, his Lordship authorizes me to sign the Articles of the Arbitration Agreement, as proposed at the close of your note under reply, whenever you may be willing to do so.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 194.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received December 28.)

My Lord,

Washington, December 18, 1891.

WITH reference to my immediately preceding despatch of to-day, I have the honour to inclose herewith the text of the seven Articles of the Behring's Sea Arbitration Agreement and of the Joint Commission Article, as signed by Mr. Blaine and myself.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure in No. 194.

Text of Articles for insertion in the Behring's Sea Arbitration Agreement as settled in the Diplomatic Correspondence between the Government of Great Britain and the Government of the United States.

I.

WHAT exclusive jurisdiction in the sea, now known as the Behring's Sea, and what exclusive rights in the seal fisheries therein, did Russia assert and exercise prior and up to the time of the cession of Alaska to the United States?

II.

How far were these claims of jurisdiction as to the seal fisheries recognized and conceded by Great Britain?

III.

Was the body of water, now known as the Behring's Sea, included in the phrase "Pacific Ocean," as used in the Treaty of 1825 between Great Britain and Russia; and what rights, if any, in the Behring's Sea, were held and exclusively exercised by Russia after said Treaty?

IV.

Did not all the rights of Russia as to jurisdiction, and as to the seal fisheries in Behring's Sea east of the water boundary, in the Treaty between the United States and Russia of the 30th March, 1867, pass unimpaired to the United States under that Treaty?

V.

Has the United States any right, and, if so, what right of protection or property in the fur-seals frequenting the islands of the United States in Behring's Sea when such seals are found outside the ordinary three-mile limit?

VI.

If the determination of the foregoing questions as to the exclusive jurisdiction of the United States shall leave the subject in such position that the concurrence of Great Britain is necessary to the establishment of Regulations for the proper protection and preservation of the fur-seal in, or habitually resorting to, the Behring's Sea, the Arbitrators shall then determine what concurrent Regulations outside the jurisdictional limits of the respective Governments are necessary, and over what waters such Regulations should extend, and, to aid them in that determination, the Report of a Joint Commission, to be appointed by the respective Governments, shall be laid before them, with such other evidence as either Government may submit.

The Contracting Powers furthermore agree to co-operate in securing the adhesion of other Powers to such Regulations.

VII.

The respective Governments having found themselves unable to agree upon a reference which shall include the question of the liability of each for the injuries alleged to have been sustained by the other, or by its citizens, in connection with the claims presented and urged by it; and, being solicitous that this subordinate question should not interrupt or longer delay the submission and determination of the main questions, do agree that either may submit to the Arbitrators any question of fact involved in said claims and ask for a finding thereon, the question of the liability of either Government upon the facts found to be the subject of further negotiation.

(Signed)

JAMES G. BLAINE.
JULIAN PAUNCEFOTE.

December 18, 1891.

Text of the Behring's Sea Joint Commission Agreement as settled in the Diplomatic Correspondence between the Government of Great Britain and the Government of the United States.

Each Government shall appoint two Commissioners to investigate conjointly with the Commissioners of the other Government all the facts having relation to seal life in Behring's Sea, and the measures necessary for its proper protection and preservation.

The four Commissioners shall, so far as they may be able to agree, make a joint Report to each of the two Governments, and they shall also report, either jointly or severally, to each Government on any points upon which they may be unable to agree.

These Reports shall not be made public until they shall be submitted to the Arbitrators, or it shall appear that the contingency of their being used by the Arbitrators cannot arise.

(Signed) JULIAN PAUNCEFOTE.
JAMES G. BLAINE.

December 18, 1891.

No. 195.

The Marquis of Salisbury to Sir J. Pauncefote.

(Telegraphic.) Foreign Office, December 29, 1891.

YOUR telegram of the 22nd instant.

You should make it clear to Mr. Blaine that Her Majesty's Government urge the appointment of seven Arbitrators.

No. 196.

The Marquis of Salisbury to Sir J. Pauncefote.

(Telegraphic.) Foreign Office, December 30, 1891.

BEHRING'S SEA.

I have been asked by Sir G. Baden-Powell to ascertain whether any date can be fixed for the meeting of the Joint Commission.

He is ready to start on the 6th January if necessary.

No. 197.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received January 4.)

(Telegraphic.) Washington, January 2, 1892.

WITH reference to your Lordship's telegram of the 30th ultimo, relative to the Behring's Sea Joint Commission, Mr. Blaine has no objection to its meeting at the earliest date which may be permitted by the other public duties of the American Commissioners. What that date will be he hopes to be in a position to inform me on the 4th instant.

No. 198.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received January 4, 1892.)

My Lord, Washington, December 23, 1891.

I HAVE the honour to inclose herewith Census Bulletin No. 123 relative to the fishing industry of the United States connected with marine mammalia.*

The business pursued by the Alaska Commercial Company is not given in the Report.

Exclusive of the operations of this Company, it appears that the capital invested in the fur-seal and sea-otter fishery in 1889 was 152,757 dollars; the value of the products landed in the same industry was 124,983 dollars; the number

* Not printed.

of persons engaged, 422. Of the fur-seal and otter fleet, 11 vessels hailed from San Francisco, 7 from Port Townsend, Washington; 1 from Santa Barbara, California; and 1 from Salem, Massachusetts.

Of the employés, 285 were natives of the United States, 5 of Canada, 18 of Great Britain, 29 of Japan, and 51 of Norway and Sweden.

The number of the fur-seal skins taken was 228.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 199.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received January 4.)

(Telegraphic.)

Washington, January 4, 1892.

WITH reference to my telegram of the 2nd instant, I have the honour to state that I was informed to-day by Mr. Blaine that the President cannot consent to the meeting of the Joint Commission until a definite settlement has been arrived at as to the remaining details of the Arbitration Agreement, which formed the subject of my telegram of the 2nd instant.

No. 200.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received January 13.)

(Telegraphic.)

Washington, January 13, 1892.

I HAVE the honour to inform your Lordship that Mr. Blaine is now most anxious for the immediate meeting of the Joint Commission, and begs that instructions may be sent to the two British Commissioners to proceed with as little delay as possible to Washington, which, in his opinion, taking all the circumstances into consideration, is the most convenient place of meeting. I should be glad to be informed whether Sir George Baden-Powell has left for America.

No. 201.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received January 14.)

(Telegraphic.)

Washington, January 14, 1892.

BEHRING'S SEA Joint Commission.

I think it of the greatest importance that Sir G. Baden-Powell and Dr. Dawson should be authorized to proceed to Washington at once. I will telegraph to Lord Stanley, begging him to request the latter gentleman to hold himself in readiness to start.

No. 202.

Foreign Office to Sir G. Baden-Powell.

Sir,

Foreign Office, January 14, 1892.

I AM directed by the Marquis of Salisbury to inform you that Sir J. Pauncefote has reported, by telegraph, that the United States' Government are now anxious that the Joint Commission should commence its sittings at once.

It is therefore desirable that you should proceed to Washington as soon as you conveniently can.

I am, &c.

(Signed) T. V. LISTER.

The Marquis of Salisbury to the Behring's Sea Commissioners.

Gentlemen,

Foreign Office, January 15, 1892.

I HAVE to inform you that Her Majesty's Minister at Washington has sent home the text of seven Articles, signed by himself and Mr. Blaine on the 18th ultimo, which are to be embodied in a formal Agreement between Her Majesty's Government and that of the United States for referring to Arbitrators certain questions at issue between the two Governments in regard to the jurisdiction claimed by the latter over the waters of Behring's Sea in connection with the fur-seal fisheries therein.

Sir J. Pauncefote has also forwarded the text of an Agreement signed on the same day for the appointment of two Commissioners by Her Majesty's Government and that of the United States respectively, to investigate, conjointly with the Commissioners of the other Government, all the facts relating to seal life in Behring's Sea, and the necessary measures for its proper protection and preservation.

A copy of Sir J. Pauncefote's despatch, inclosing both these documents, is forwarded herewith for your information.*

I now transmit the Queen's Commission under the Sign Manual appointing you to be Her Majesty's Commissioners in accordance with the provisions of the Joint Commission Agreement, and I request that you will proceed to Washington as soon as you can conveniently do so, in order to draw up the Report indicated in the second paragraph of the Agreement.

The information which has been obtained by your American colleagues and yourselves during your recent visit to Behring's Sea will supply you with material for the preparation of your Report.

There are, however, a few points to which Her Majesty's Government consider it desirable that your special attention should be directed.

You will observe that it is intended that the Report of the Joint Commissioners shall embrace recommendations as to all measures that should be adopted for the preservation of seal life. For this purpose, it will be necessary to consider what Regulations may seem advisable, whether within the jurisdictional limits of the United States and Canada, or outside those limits. The Regulations which the Commissioners may recommend for adoption within the respective jurisdictions of the two countries will, of course, be matter for the consideration of the respective Governments, while the Regulations affecting waters outside the territorial limits will have to be considered under clause 6 of the Arbitration Agreement in the event of a decision being given by the Arbitrators against the claim of exclusive jurisdiction put forward on behalf of the United States.

The Report is to be presented in the first instance to the two Governments for their consideration, and is subsequently to be laid by those Governments before the Arbitrators to assist them in determining the more restricted question as to what, if any, Regulations are essential for the protection of the fur-bearing seals outside the territorial jurisdiction of the two countries.

In the event of any points arising on which the Commissioners are unable to arrive at an understanding, they should report jointly or severally to each Government on such points.

In conclusion, I have to state that Her Majesty's Government place every reliance on your tact and discretion in the conduct of your investigations with your American colleagues, who will, no doubt, be equally desirous with yourselves of arriving at a common agreement on the questions to be discussed.

I am, &c.

(Signed) SALISBURY.

No. 204.

Sir G. Baden-Powell to the Marquis of Salisbury.—(Received February 1.)

(Telegraphic.)

Washington, February 1, 1892.

ARRIVED Washington with Dawson 31st January.

No. 205.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received February 1.)

(Telegraphic.)

Washington, February 1, 1892.

I HAVE the honour to inform your Lordship that Sir George Baden-Powell and Dr. Dawson have arrived here. I called with them to-day on Mr. Blaine, who promised that the place and time of meeting of the Joint Commission should be arranged at once.

No. 206.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received February 7.)

My Lord,

Washington, January 29, 1892.

I HAVE the honour to inclose herewith copy of a note which I addressed to Mr. Blaine, informing him of the acceptance by Her Majesty's Government of his proposal that the Behring's Sea foreign Arbitrators shall be chosen by France, Italy, and Sweden.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure in No. 206.

Sir J. Pauncefote to Mr. Blaine.

Sir,

Washington, January 21, 1892.

I HAVE the honour to inform you that immediately after my interview with you on the 15th instant in regard to the question of the countries who are to name the Arbitrators in the Behring's Sea controversy, I telegraphed to the Marquis of Salisbury that you did not insist on the knowledge of English by the Arbitrators as a condition, but merely as a desirable qualification.

I have now received a telegram from his Lordship, stating that Her Majesty's Government accept your proposal that the Arbitrators shall be chosen by France, Italy, and Sweden.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 207.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received February 8.)

(Telegraphic.)

Washington, February 8, 1892.

I FORWARDED, by bag, on the 5th instant, for your Lordship's approval, a draft Behring's Sea Arbitration Convention which has been proposed by Mr. Blaine. The Joint Commission is embodied in it, and Mr. Blaine insists that the proceedings of the Joint Commissioners shall be informal until it is signed. After much delay, they meet to-day for the first time. A *modus vivendi* during the next fishery season is pressed for by Mr. Blaine, and he hopes that Her Majesty's Government will be prepared to put into force any Regulations which may be recommended by the Joint Commission for immediate application.

No. 208.

Behring's Sea Commissioners to the Marquis of Salisbury.—(Received February 10.)

(Telegraphic.)

Washington, February 9, 1892.

WE beg to report, for your Lordship's information, that we have commenced to hold meetings of an informal nature with the American Commissioners, clearing the ground where possible, but until the Arbitration Convention is signed we have

decided that it is not expedient to commence formal work, or exhibit any of the conclusions at which we have arrived.

No. 209.

Colonial Office to Foreign Office.—(Received February 10.)

(Extract.)

Downing Street, February 10, 1892.

I AM directed by Lord Knutsford to acknowledge the receipt of your letter of the 9th instant, inclosing paraphrase of a telegram from Her Majesty's Minister at Washington respecting the Behring's Sea negotiations.

Lord Knutsford desires me to state that he thinks it desirable, if the Marquis of Salisbury sees no objection, to consult the Canadian Government as to the proposals for a renewal of the *modus vivendi*, and the enforcement of such Regulations as the Joint Commission may recommend for immediate application.

No. 210.

The Behring's Sea Commissioners to the Marquis of Salisbury.—(Received February 11.)

My Lord,

Ottawa, January 29, 1892.

WE have the honour to acknowledge the receipt of your Lordship's despatch of the 15th instant, inclosing the Queen's Commission under the Sign Manual appointing us to be Her Majesty's Commissioners in accordance with the provisions of the Joint Commission Agreement of the 18th December, 1891, between Her Majesty's Government and that of the United States.

We are not aware whether the United States' Commissioners have as yet been appointed, but we were informed on the 28th instant by Sir Julian Pauncefote that Mr. Blaine agrees to the meeting of the Joint Commission on the 1st February.

We are therefore proceeding at once to Washington, where we will endeavour to the best of our ability to carry out the instructions embodied in your Lordship's despatch under acknowledgment.

We have, &c.

(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

No. 211.

The Behring's Sea Commissioners to the Marquis of Salisbury.—(Received February 11.)

My Lord,

Washington, February 1, 1892.

WE have the honour to report that we arrived here on the evening of Sunday, the 31st January.

We called on Sir Julian Pauncefote the same evening, and he courteously arranged for an interview with the Secretary of State on Monday, the 1st February.

This morning Sir J. Pauncefote formally introduced us to Mr. Blaine, who told us that he would at once make the necessary arrangements for us to meet our fellow Commissioners, but he did not anticipate that a meeting could take place before Wednesday, the 3rd instant.

We took the opportunity of explaining that we were fully prepared to commence work to-day.

We have, &c.

(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received February 15.)

(Extract.)

Washington, February 4, 1892.

AS I had the honour to report in my despatch of the 29th ultimo, I informed Mr. Blaine, in a note dated the 21st ultimo, that Her Majesty's Government had accepted his proposal, that the three foreign members of the Behring's Sea Arbitration Tribunal should be chosen by France, Italy, and Sweden.

On the 30th ultimo, not having received any further communication from Mr. Blaine on the subject, I addressed a note to him (of which a copy is inclosed), inquiring whether he was now prepared to proceed at once to the preparation and signature of the Arbitration Convention.

On the 2nd instant Mr. Blaine invited me to call on him, when he placed in my hands the draft of a Convention which he requested me to examine, and which is based on the Arbitration Articles of the Treaty of Washington, and incorporates the Articles already signed, and also the Joint Commission Agreement.

It was arranged that I should go over the draft the following day with Mr. Alvey A. Adee (Second Assistant Secretary of State), by whom it had been prepared, so that it should be put into such a form as I should approve before submitting it to your Lordship. I accordingly had several interviews with Mr. Adee, at which I suggested various alterations which were adopted, and I now have the honour to inclose a copy of the draft, as amended, for your Lordship's consideration.*

The reason assigned for including the Joint Commission Agreement in the Arbitration Convention is that, as it entails an expenditure of public money, it must be laid before the Senate, as well as the Arbitration Convention, and it is more convenient that the whole arrangement should be comprised in the same instrument.

If your Lordship should approve substantially of the draft, Mr. Blaine suggests that it would save a great deal of time if I were instructed, by telegraph, to sign the Convention (with such modifications as your Lordship may desire) *nunc pro tunc*, and without awaiting the arrival of my full powers, which can be communicated later on.

Inclosure in No. 212.

Sir J. Pouncefote to Mr. Blaine.

Sir,

Washington, January 30, 1892.

ALL the details of the Behring's Sea Arbitration having now been finally settled by the understanding arrived at as to the Governments who shall be invited to select the three foreign Arbitrators, I have the honour to request you to be good enough to inform me whether you are prepared to proceed at once to the preparation and signature of the formal Arbitration Convention and of the Joint Commission Agreement, in accordance with the text of the Articles to be inserted therein, which was signed by us on the 18th December last.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 213.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received February 15.)

My Lord,

Washington, February 5, 1892.

AT the interview which I had with Mr. Blaine on the subject of the draft Arbitration Convention transmitted in my previous despatch of this date, he strongly pressed upon me the importance of being prepared to put in force during the next

* For Convention as signed, see No. 246.

fishery season in Behring's Sea such Regulations as might be recommended by the Joint Commission which is about to commence its sittings in Washington.

He observed that it was now quite certain that the arbitration would not be concluded for many months, and no time, therefore, should be lost in devising another *modus vivendi*, to take effect from the expiration of the present one.

In answer to his inquiry as to the power of Her Majesty's Government to put in force any Regulations which might temporarily be agreed upon, I stated that for such purpose it would be necessary to have recourse again to Parliament.

He then requested me to invite your Lordship's immediate attention to the importance of taking immediate powers for that purpose, as the sealing fleets were already reported to be clearing out.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 214.

The Marquis of Salisbury to Sir J. Pauncefote.

(Telegraphic.)

Foreign Office, February 10, 1892.

THE draft Convention, inclosed in your despatch of the 5th instant, for referring to arbitration the questions at issue between Her Majesty's Government and that of the United States in connection with the seal fisheries in Behring's Sea, has been referred to the Law Officers of the Crown, who have been asked to furnish a Report on its terms at their earliest convenience.

Her Majesty's Government cannot express an opinion upon Mr. Blaine's proposal for a fresh *modus vivendi* during the present year until they are further informed as to what the provisions of the *modus vivendi* are to be. It does not seem to be at all necessary for the preservation of the fur-seal species that sealing should be entirely prohibited.

No. 215.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received February 18.)

(Telegraphic.)

Washington, February 17, 1892.

WITH reference to your Lordship's telegram of the 16th instant, Mr. Blaine presses that the question of the *modus vivendi* should be considered and reported on by the Joint Commission. I have informed him that, in my opinion, it has no power to do so under its present mandate. Will your Lordship inform me whether you are willing that the necessary authority shall be given to the Commission, provided that no obligations will be imposed upon either Government by its report?

No. 216.

The Marquis of Salisbury to Sir J. Pauncefote.

(Telegraphic.)

Foreign Office, February 18, 1892.

HER Majesty's Government have had under their consideration Mr. Blaine's proposal, reported in your telegram of yesterday, that the Joint Commission should examine and report on the question of arranging a fresh *modus vivendi* during the next seal-fishing season in Behring's Sea.

They have no objection to its being considered by the Commission whether, in case the decision of the Arbitrators is not obtained before June on the points to be submitted to them, any *modus vivendi* will be necessary, and, in that case, what should be its provisions.

Her Majesty's Government must, however, reserve absolutely their right of action in respect to any recommendations that may be made by the Commissioners.

In the present state of Parliamentary business, it seems unlikely that it would be possible to obtain any fresh powers from Parliament.

"The Seal Fishery (Behring's Sea) Act, 1891," is still in force, but it only gives power to prohibit sealing in Behring's Sea by Order in Council within limits and for a period to be specified in the Order itself.

You should communicate to the Canadian Government the substance of your telegram of the 17th instant, and of my reply.

No. 217.

The Marquis of Salisbury to Sir J. Pouncefote.

(Telegraphic.)

Foreign Office, February 20, 1892.

HER Majesty's Government have had under their consideration the draft of a Convention, forwarded with your despatch of the 4th instant, for arbitration on the question of the seal fisheries in Behring's Sea.

They are prepared to accept it, subject to certain amendments which I have telegraphed to you.

No. 218.

The Behring's Sea Commissioners to the Marquis of Salisbury.—(Received February 25.)

My Lord,

Arlington Hotel, Washington, February 19, 1892.

IN continuation of our despatch of the 1st instant, we have the honour to report that after informing the Secretary of State of our readiness to commence work on the Joint Commission on the 1st February we received no further intimation as to our conferences until Sir Julian Pouncefote communicated to us the information that in letters dated the 4th and 6th February Mr. Blaine had pointed out to him that we could not proceed officially to the discharge of our duties or formulate our Reports until the Arbitration Convention was signed, but that he would interpose no objection to our holding preliminary and informal conferences.

2. On the 8th February we accordingly held our first preliminary conference, and much preparatory work was got through. It was then arranged to hold a second conference on the 11th instant.

3. The decision on Mr. Blaine's suggestion that, pending the signature of the Arbitration Convention, the meetings of the Joint Commission were to be informal, we communicated to your Lordship on the 9th instant, in a telegram of which a paraphrase is inclosed herewith.

4. On the 10th February, however, Sir J. Pouncefote received and communicated to us a further letter from the Secretary of State, dated the previous day, in which Mr. Blaine unexpectedly took up quite a new position, stating that the United States' Commissioners had now been instructed to make known to us their readiness formally to arrange for a joint conference, and proceed without further delay to the discharge of the duties assigned to them.

5. We ventured to suggest to Sir Julian Pouncefote that in view of the strong opinion expressed by Mr. Blaine in his letters of the 4th and 6th February it might be well if notes were exchanged between the two Governments, declaring that all work and conferences of the Joint Commission undertaken before the signing of the Arbitration Convention would be regarded by them as formal and efficient in character.

6. On Thursday, the 11th instant, after consultation with Sir J. Pouncefote, we held the second conference, at which we communicated our respective powers, and decided to regard that and future meetings as formal pending the signing of the Arbitration Convention, and on the understanding that the respective Governments have so determined.

7. We have now decided to meet *de die in diem*, and there seems to be every prospect of our progressing well with our work.

8. The United States' Government have very courteously provided accommodation for our conferences in rooms at the State Department.

We have, &c.
(Signed) GEORGE BADEN-POWELL,
GEORGE M. DAWSON.

No. 219.

Lord Stanley of Preston to Lord Knutsford.—(Received February 24.)

(Telegraphic.)

Ottawa, February 23, 1892.

WITH reference to your telegram of the 16th instant respecting the *modus vivendi* in Behring's Sea, my Ministers do not possess any information to show that a *modus vivendi* is necessary, or that it can be reasonably demanded. If, however, such information has reached Her Majesty's Government, the Government of the Dominion would not oppose such a *modus vivendi* provided that it were confined to a zone of moderate limits, say, 25 miles, around the seal islands, and provided that it is accompanied by stringent restrictions against the killing of seals on land, with better supervision than during the *modus vivendi* of last year. Any arrangement of a more extended character would involve compensation to the sealing-vessels, and for this, of course, Canada could not be expected to make provision from the funds of the Dominion.

No. 220.

Sir J. Panncofote to the Marquis of Salisbury.—(Received February 25.)

(Telegraphic.)

Washington, February 25, 1892.

BEHRING'S SEA *modus vivendi*.

With reference to your Lordship's telegram of the 16th instant, I have informed Mr. Blaine that your Lordship could not give an opinion until you learned what *modus vivendi* was proposed.

Following is the substance of a note which I have received in reply:—

The arbitration cannot possibly be concluded within the period of time which was contemplated originally. The delays which have occurred have been much more by Great Britain than by the United States.

The President suggests that the *modus* should be similar in terms to that of last year, but that it should be more fully executed. More efficient measures on the part of Her Majesty's Government will be practicable this year owing to the earlier date. More seals than ever were taken last year, the departure of the sealing-vessels having taken place previous to the agreement as to the *modus vivendi*. The prevention of sealing in the North Pacific Ocean would be the most effective measure for Her Majesty's Government to adopt. The large number of sealers preparing to go forth from British Columbia would have to receive notice of this. The number of sealers is reported to be larger than ever, and without regulations there will be an immense destruction of females heavy with young.

Mr. Blaine urgently requests me to send the contents of the note to your Lordship by telegraph. I have not yet mentioned the question of authorizing the Joint Commission to report on the *modus vivendi* on the conditions mentioned in your Lordship's telegram of the 18th instant.

No. 221.

Sir J. Panncofote to the Marquis of Salisbury.—(Received February 26.)

(Telegraphic.)

Washington, February 26, 1892.

MY telegram of yesterday.

Mr. Blaine specially desires me to telegraph to your Lordship *verbatim* the following paragraph contained in his note of the 24th instant respecting the *modus vivendi*:—

"Holding an arbitration in regard to the rightful mode of taking seals, while their destruction goes forward, would be as if while an arbitration to the title to timber-land were in progress, one party were to cut remove all the trees."

He attaches much importance to this illustration.

No. 222.

Sir J. Panncofote to the Marquis of Salisbury.—(Received February 27.)

(Telegraphic.)

Washington, February 26, 1892.

WITH reference to your Lordship's telegram of the 25th instant, the opinion of the British Behring's Sea Commissioners as to a *modus vivendi* may be convenient to your Lordship at this juncture. They report as follows:—

• Repeated to Sir J. Panncofote.

"We do not apprehend any danger of serious further depletion of the fur-seal resorting to the Pribyloff Islands, as the result of hunting this year, unless excessive killing be permitted on the breeding islands. As a judicious temporary measure of precaution, however, for this season, and looking to permanent regulations for the fishery as a whole being established in time for the season of 1893, we would recommend the prohibition of all killing at sea during this season, within a zone extending to, say, not more than 30 nautical miles around the Pribyloff Islands, such prohibition being conditional on the restriction to a number not to exceed 30,000 as a maximum of the seals killed for any purpose on the islands."

I believe that the necessity for the total cessation of pelagic sealing will be insisted on by the American Commissioners, if the question be referred to the Joint Commission; but I submit that it is not necessary for us to go beyond the opinion of our own experts, pending arbitration.

No. 223.

The Marquis of Salisbury to Sir J. Pouncefote.

(Telegraphic.)

Foreign Office, February 27, 1892.

HER Majesty's Government have had under their consideration your telegrams of the 25th and 26th instant, dealing with the question of the *modus vivendi* proposed by Mr. Blaine for the approaching seal-hunting season.

They cannot admit in any degree the correctness of Mr. Blaine's statement that there have been greater delays on the part of this country in the negotiations for settling the Behring's Sea difficulty than there have been on that of the United States.

The consent of Her Majesty's Government was given last year to a *modus vivendi* solely on the ground that the preservation of the seal species in those waters was supposed to be endangered unless some interval were given during which there would be a cessation of hunting both on land and sea.

No information has reached Her Majesty's Government to lead them to suppose that so drastic a measure is requisite for two successive seasons.

Indeed, they are informed by the British members of the Joint Commission now sitting at Washington that there is no danger, so far as the sea fishery is concerned, of any serious diminution of the numbers of the fur-seal species as a consequence of hunting them during the approaching season.

You are, however, authorized to offer to the Government of the United States the compromise suggested by the British Commissioners, and reported in your telegram of the 26th instant, viz., that during the present year the killing of seals at sea should be prohibited within a given radius not exceeding 30 nautical miles round the Pribyloff Islands on condition that the number of seals to be killed for any purpose on the islands shall be restricted to a definite amount, not exceeding 30,000 at the utmost. A speedy decision is necessary, as we are informed that the sealing vessels are already leaving port.

Mr. Blaine's comparison of the present situation to a question of ownership of timber land does not appear to me to be applicable. The case resembles rather an arbitration on the title to a meadow. While the arbitration is pending the party in actual possession cuts the grass, and rightly so, inasmuch as next year the grass will be reproduced. This will equally be the case with the seals.

No. 224.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received February 28.)

(Telegraphic.)

Washington, February 26, 1892.

I AM requested by Mr. Blaine to inform your Lordship that he has received the following Report from the United States' Consul at Victoria:—"Forty-six sealing vessels cleared to date. Six or seven more to go. At the same date last year only thirty-one cleared."

No. 225.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received February 28.)

(Telegraphic.)

Washington, February 27, 1892.

THE Convention will be signed on Monday, at 11 A.M.

No. 226.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received March 1.)

My Lord,

Washington, February 18, 1892.

I HAVE the honour to inclose herewith copies of a correspondence which has taken place between Mr. Blaine and myself on the subject of the Behring's Sea Joint Commission.

Your Lordship will remember that the British Commissioners were summoned to Washington at the request of Mr. Blaine, who, after having persistently refused to agree to the meeting of the Joint Commission until after the signature of the Arbitration Convention, informed me on the 13th January (as I had the honour to report to your Lordship by telegraph on the same day) that he was now anxious that the Commission should sit at once, and he proposed Washington as the most convenient place of meeting. Accordingly Sir George Baden-Powell, who was then in England, started by the first opportunity for New York, and, after visiting Ottawa, arrived in Washington with his Canadian colleague, Dr. Dawson, on the 31st ultimo. On the following day (Monday, the 1st instant) I presented them formally to Mr. Blaine at the State Department as the British Commissioners, and I understood from him that they would be placed immediately in communication with their American colleagues with a view to proceeding at once with the business of the Joint Commission.

It was not, however, until the evening of Friday, the 5th, that I received a note from Mr. Blaine informing me of the formal appointment of the American Commissioners, and stating that as soon as he should have been "officially advised" by me of the appointment of Commissioners on the part of the British Government, the United States' Commissioners would be ready to confer with them "informally," but that until the Arbitration Convention should have been signed, the Commissioners would not be expected to agree upon or formulate any Report. This communication, which I received with surprise under the circumstances above mentioned, led to the correspondence which I have the honour to inclose, from which your Lordship will perceive that Mr. Blaine ultimately agreed that the Commission should proceed formally to business. But the first meeting of the Commission did not take place until the 15th instant, and a whole fortnight was lost by delays, for which it appears to me that the United States Government are alone responsible.

I beg to draw your Lordship's particular attention to Mr. Blaine's remarks in the letter of the 6th February on the selection of Commissioners made by Her Majesty's Government, and I trust that the answer which I returned to that letter will meet with your Lordship's approval.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure 1 in No. 226.

Mr. Blaine to Sir J. Pauncefote.

Sir,

Department of State, Washington, February 4, 1892.

I HAVE the honour to inform you that the President has this day appointed and commissioned Thomas Corwin Mendenhall and Clinton Hart Merriam to act as Commissioners on the part of the Government of the United States in accordance with the Agreement which I signed with you on the 18th December, 1891, to investigate and report, conjointly with Commissioners to be appointed by the British Government, upon the facts having relation to the preservation of seal life in Behring's Sea, and the measures necessary for its protection and preservation, with a view to the submission of their conclusions to the Board of Arbitrators, whose constitution has already been agreed upon by us.

Until the Convention for Arbitration shall have been signed the Commissioners will not be expected to agree upon or formulate any Reports, but after I shall be officially advised by you of the appointment of Commissioners on the part of the British Govern-

ment, the Commissioners on the part of the United States will hold themselves ready to confer informally with their British colleagues at such time as may suit their convenience.

I have, &c.
(Signed) JAMES G. BLAINE.

Inclosure 2 in No. 226.

Sir J. Pouncefote to Mr. Blaine.

Sir,

Washington, February 6, 1892.

I HAVE the honour to acknowledge the receipt of your note dated the 4th February (but only delivered yesterday evening), in which you inform me that the President has appointed Mr. Mendenhall and Mr. Merriam Commissioners, on the part of the Government of the United States, on the Joint Commission therein referred to.

Sir George Baden-Powell and Professor Dawson whom I had the honour to present to you on the 1st instant, have been duly appointed Commissioners on the part of Her Majesty's Government, and, as I have already stated to you verbally, they are furnished with their credentials in due form.

On the 13th ultimo, at your request, I communicated to the Marquis of Salisbury, by telegraph, your desire that the British Commissioners should proceed at once to Washington. Accordingly, Sir G. Baden-Powell left England for that purpose by the first steamer, and arrived here with Dr. Dawson on the 1st of the month. They have been awaiting ever since to be placed in communication with the United States' Commissioners, and I trust that arrangements will be made for the meeting of the Commission on Monday next for the purpose indicated in the last paragraph of your note under reply, although the British Commissioners came prepared, not for an informal conference, but to proceed officially to business.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

Inclosure 3 in No. 226.

Mr. Blaine to Sir J. Pouncefote.

Sir,

Department of State, Washington, February 6, 1892.

I AM in receipt of your note of this date, in which you give me the official notification of the appointment of Sir G. Baden-Powell and Professor Dawson as Commissioners on the part of the British Government on the Joint Commission created in view of the proposed far-seal Arbitration.

In acknowledging your note, I deem it important to direct your attention to the fact that the Government of the United States, in nominating the Commissioners on its part, selected gentlemen who were especially fitted by their scientific attainments, and who were in no wise disqualified for an impartial investigation and determination of the questions to be submitted to them by a public declaration of opinion previous or subsequent to their selection. It is to be regretted that a similar course does not seem to have been adopted by the British Government. It appears, from a document which you transmitted to me under date of the 9th March, 1890 (Inclosure 4), that one of the gentlemen selected by your Government to act as a Commissioner on its part has fully committed himself in advance on all the questions which are to [be?] submitted to him for investigation and decision.

I am further informed that the other gentleman named in your note had, previous to his selection, made public his views on the subject; and that very recently he has announced, in an address to his Parliamentary constituents, that the result of the investigation of this Commission and of the proposed Arbitration would be in favour of his Government.

I trust, however, that these circumstances will not impair the candid and impartial investigation and determination which was the object had in view in the creation of the Commission, and that the result of its labours may greatly promote an equitable and mutually satisfactory adjustment of the questions at issue.

The Commissioners on the part of the United States have been instructed to put themselves in communication with the British Commissioners, to tender them an apart-

ment at the Department of State for the joint conference, and, if it shall suit their convenience, to agree with them upon an hour for their first conference on Monday next, the 9th instant.

It is proper to add that, when I indicated to you on the 13th ultimo that the British Commissioner then in London might come at once to Washington, I supposed that we should before this date have signed the Arbitration Convention, and thus have enabled the Commissioners to proceed officially to a discharge of their duties. But as it became necessary to await the approval of the draft of that instrument, which you have forwarded to London, I have interposed no objection to preliminary conferences of the Commissioners, anticipating the signature of the Convention within a very brief period.

I have, &c.

(Signed) JAMES G. BLAINE.

Inclosure 4 in No. 226.

Sir J. Pauncefote to Mr. Blaine.

Sir,

Washington, February 8, 1892.

I HAVE the honour to acknowledge the receipt of your note of the 6th instant, in which you observe upon the selection made by our respective Governments of the members of the Joint Commission which is about to sit at Washington for the purpose of investigating and reporting upon the facts having relation to seal life in Behring's Sea with a view to the proposed Arbitration.

The second paragraph of your note contains the following passage:—

"I deem it important to direct your attention to the fact that the Government of the United States, in nominating the Commissioners on its part, selected gentlemen who were especially fitted by their scientific attainments, and who were in no wise disqualified for an impartial investigation and determination of the questions to be submitted to them by a public declaration of opinion previous or subsequent to their selection. It is to be regretted that a similar course does not seem to have been adopted by the British Government."

While I have much pleasure in congratulating your Government on having secured on their side the services of two such distinguished gentlemen as Professor Mendenhall and Dr. Merriam, I must express my surprise and regret that you should have thought fit to refer in terms of disparagement to the choice made by Her Majesty's Government.

The British Commissioners, Sir G. Baden-Powell and Dr. Dawson, are gentlemen whose scientific attainments and special qualifications for the duties intrusted to them are too well known to require any vindication on my part. But you complain of the fact that Dr. Dawson in 1890 wrote a paper on the protection of the fur-seal in the North Pacific, in which he committed himself to certain views. This shows that he has made the subject his special study, and it appears to me that he is all the more qualified on that account to take part in the labours of the Joint Commission, which, I beg leave to point out, is not a Board of Arbitration, but one of Investigation.

Dr. Dawson's note on the fur-seal, to which you refer, was merely based upon such published material as was at the time available, and I have his authority for stating that he does not feel himself in any way bound to the opinions expressed from the study of that material, in the light of subsequent personal investigation on the ground.

You likewise complain that Sir George Baden-Powell had, previously to his selection as Commissioner, made public his views on the subject, and also that he is reported to have stated in an address to his Parliamentary constituents that the result of the investigation of the Joint Commission and of the proposed Arbitration would be in favour of his Government. Sir G. Baden-Powell is particularly qualified to take part in the inquiry by reason of his personal investigation into the industrial part of the question which he pursued in 1887 and 1889 in San Francisco and British Columbia. From the first he has advocated in all his public statements a full inquiry into the facts of seal life in Behring's Sea before any final agreement should be arrived at, in order that the views of all parties should be tested as to the best method of protecting seal life. There is no just ground, therefore, for charging him with partiality. As regards the language imputed to him on the occasion of an address which he recently delivered to his constituents in England on the labour question, it appears that some introductory remarks, in which he referred to the Behring's Sea question, were inaccurately reported. What he did state was that, thanks to the arrangement arrived at between the two

Governments, the Behring's Sea difficulty would now be settled in the true interests of all concerned, and not of any one side or the other.

I may mention that the opinions of Professor Mendenhall and Dr. Merriam on the fur-seal question were published in several journals in this country shortly after their return from Behring's Sea, and were stated (I know not with what accuracy) to be opposed to the views which have been urged on the side of Her Majesty's Government.

But I do not suggest that the United States' Commissioners on that account are disqualified from taking part in the labours of the Joint Commission; I claim that all the Commissioners, British and American, are equally entitled to the confidence of both Governments as men of science, honour, and impartiality.

The course which has been adopted for ascertaining what measures may be necessary for the protection of the fur-seal species is substantially the same as that which I had the honour to propose to you, on behalf of Her Majesty's Government, nearly two years ago in the form of a draft Convention, inclosed in my note of the 29th April, 1890.

I rejoice that the proposal I then made is now to be carried out, and I cordially unite in the hope, expressed in your note under reply, that the result of the labours of the Joint Commission will promote an equitable and mutually satisfactory adjustment of the questions at issue.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure 5 in No. 226.

Mr. Blaine to Sir J. Pauncefote.

Sir, *Department of State, Washington, February 9, 1892.*

I HAVE been informed by the American Seal Commissioners that, in an informal meeting with their British colleagues yesterday, the latter expressed an unwillingness to enter upon conferences of any other than an official character, and they therefore proposed that their joint conferences be postponed until after the Arbitration Convention shall have been signed.

I beg to state to you that the Government of the United States is very anxious to expedite as much as possible the consideration of the important questions submitted to the Commissioners; and in view of the fact that it regards the Arbitration Convention as substantially agreed upon, the American Commissioners have been instructed to make known to the British Commissioners their readiness to formally arrange the joint conference and proceed without further delay to the discharge of the duties assigned to them.

I have, &c.

(Signed) JAMES G. BLAINE.

Inclosure 6 in No. 226.

Sir J. Pauncefote to Mr. Blaine.

Sir, *Washington, February 11, 1892.*

I HAD the honour to receive yesterday your note of the 9th instant, in which you state that you have been informed by the American Seal Commissioners that, in an informal meeting with their British colleagues on the 8th instant, the latter expressed an unwillingness to enter upon conferences of any other than an official character, and they therefore proposed that their joint conferences be postponed until after the Arbitration Convention has been signed.

The British Commissioners, to whom I communicated your note, have informed me that, at the preliminary conference of the Commissioners on the 8th instant, they discussed with their colleagues what work of a preparatory character could be got through at once. The meeting was informal, according to the conditions laid down in the last paragraph of your note to me on the 4th instant; and it was arranged by the Commissioners to hold a second preliminary conference this day at the State Department, at 3 o'clock, at which they could discuss certain matters which they had undertaken to consider in the interval, and to do other preparatory work.

In consequence of your note of the 9th instant, the British Commissioners hope, at the conference to-day, to arrange with their colleagues that the joint conference shall proceed to business formally.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

No. 227.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received March 1.)

My Lord,

Washington, February 18, 1892.

WITH reference to my preceding despatch of to-day, relating to the Behring's Sea Joint Commission, I have the honour to inclose copies of an informal note which I received from Mr. Blaine on the 12th instant respecting the refusal of the British Commissioners to deal with the question of a *modus vivendi*, and of the reply which I returned thereto. Also a copy of a letter addressed to me on the 13th instant by the British Commissioners, inquiring whether the Commission is authorized to consider and report on measures of seal preservation within the territorial jurisdiction of either Power.

I took the opportunity of a visit to the State Department on Monday, the 15th instant, to show the last-mentioned letter to Mr. Blaine, who, after reading it, expressed his surprise that, looking at the wide terms of the Joint Commission Agreement, the Commissioners should entertain any doubt as to the scope of their powers; and he suggested that they should all be invited to meet him and me at the State Department the following morning to explain their difficulty. The meeting accordingly took place, but all discussion was rendered unnecessary by the announcement that the American Commissioners had, since the date of the letter, arrived at the conclusion that they were free to consider all measures, even though they might relate to matters within national jurisdiction.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

Inclosure 1 in No. 227.

Mr. Blaine to Sir J. Pauncefote.

My dear Sir Julian,

17, Madison Place, Washington, February 12, 1892.

THE motive you have always urged upon me for assembling the Commissioners on Seal Fisheries at an early date was that they could provide a *modus vivendi* that would be sufficient, while the Arbitration should go on with plenty of time to consider the various points.

I was surprised to hear that your Commissioners yesterday declined to discuss the *modus vivendi*, on the allegation that that was a subject reserved for you and me. This puts an entirely new phase upon the work of the Commission, and largely diminishes its value.

Will you have the goodness to advise me of the precise scope of the work which you have assigned to your Commissioners?

Very truly, &c.
(Signed) JAMES G. BLAINE.

Inclosure 2 in No. 227.

Sir J. Pauncefote to Mr. Blaine.

Dear Mr. Blaine,

Washington, February 13, 1892.

IN reply to your letter of yesterday, I beg to state that, in my opinion, the British Commissioners are right in holding that they have no power under their present mandate to discuss the question of a *modus vivendi* for the next fishery season. Their authority is limited by the terms of the Joint Commission Agreement, the text of which we signed on the 18th December last. That authority is confined to reporting their views on

what Fishery Regulations of a permanent character may be necessary with a view to arbitration. The question of a *modus vivendi* pending the result of the Arbitration is one for the two Governments to discuss. I have certainly urged, as an additional reason for the early meeting of the Joint Commission, that its Reports would furnish our Governments with valuable materials for such discussion; but it can hardly be contended that the Commissioners can properly deal with such a question without special authority from their respective Governments. I communicated to Lord Salisbury the proposal you made to me at our interview of the 2nd instant, that our two Governments should agree to a *modus vivendi*, and I am awaiting his Lordship's reply.

Very truly, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure 3 in No. 227.

The Behring's Sea Commissioners to Sir J. Pauncefote.

Sir, *Arlington Hotel, Washington, February 13, 1892.*

WE have the honour to inform you that our colleagues on the Behring's Sea Joint Commission have to-day explained to us that their original letter of instructions has now lapsed, and that they have no further instructions than those contained in the text of their Commission.

We are now holding daily conferences, and are anxious not to waste time by discussing matters outside the scope of our mutual instructions, which should, we presume, be identical.

We agreed with our colleagues to ask whether you would obtain from the Secretary of State information as to whether the United States' Commissioners are, like ourselves, authorized to consider, and, if they see fit, to report in favour of, measures of seal preservation in general, or whether they are restricted to measures outside the territorial jurisdiction of either Power.

We have, &c.

(Signed) GEORGE BADEN-POWELL.
GEORGE M. DAWSON.

No. 228.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received March 1.)

(Telegraphic.)

Washington, February 29, 1892.

BEHRING'S SEA. The Arbitration Convention was signed by Mr. Blaine and myself this morning. Is it desired by your Lordship that the exchange of ratifications should take place in Washington or in London?

No. 229.

The Marquis of Salisbury to Sir J. Pauncefote.

(Telegraphic.)

Foreign Office, March 1, 1892.

IN reply to your telegram of the 29th ultimo, the exchange of ratifications of the Behring's Sea Convention could be carried out more expeditiously if made in London than at Washington. You should telegraph when the Convention is approved by the Senate.

No. 230.

The Marquis of Salisbury to Sir J. Pauncefote.

Sir,

Foreign Office, March 2, 1892.

I HAVE received your despatch of the 18th ultimo, inclosing copies of correspondence with Mr. Blaine in regard to the meeting of the Joint Commissioners appointed under the Agreement of the 18th December last to report on the facts having relation to the preservation of seal life in Behring's Sea.

Your proceedings, as reported in that despatch, and the terms of your note to Mr. Blaine of the 8th February, are approved by Her Majesty's Government.

I am, &c.
(Signed) SALISBURY.

No. 231.

Sir J. Pauncefote to the Marquis of Salisbury.—(Received March 5.)

My Lord,

Washington, February 23, 1892.

I HAVE the honour to report that on the 15th instant the President issued the usual Behring's Sea Proclamation in the same terms as heretofore.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

Inclosure in No. 231.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A Proclamation.

THE following provisions of the Laws of the United States are hereby published for the information of all concerned :—

Section 1956, Revised Statutes, Chapter 3, Title 23, enacts that : " No person shall kill any otter, mink, marten, sable, or fur-seal, or other fur-bearing animal within the limits of Alaska Territory, or in the waters thereof; and every person guilty thereof shall, for each offence, be fined not less than 200 nor more than 1,000 dollars, or imprisoned not more than six months, or both; and all vessels, their tackle, apparel, furniture, and cargo, found engaged in violation of this section shall be forfeited; but the Secretary of the Treasury shall have power to authorize the killing of any such mink, marten, sable, or other fur-bearing animal, except fur-seals, under such regulations as he may prescribe; and it shall be the duty of the Secretary to prevent the killing of any fur-seal, and to provide for the execution of the provisions of this section until it is otherwise provided by law; nor shall he grant any special privileges under this section."

Section 3 of the Act entitled " An Act to provide for the Protection of the Salmon Fisheries of Alaska," approved March 2, 1889, provides that :—

" Section 3. That section 1956 of the Revised Statutes of the United States is hereby declared to include and apply to all the dominion of the United States in the waters of Behring's Sea; and it shall be the duty of the President, at a timely season in each year, to issue his Proclamation and cause the same to be published for one month in at least one newspaper, if any such there be, published at each United States' port of entry on the Pacific coast, warning all persons against entering said waters for the purpose of violating the provisions of said section; and he shall also cause one or more vessels of the United States to diligently cruise said waters and arrest all persons, and seize all vessels found to be, or to have been, engaged in any violation of the laws of the United States therein."

Now, therefore, I, Benjamin Harrison, President of the United States, pursuant to the above recited Statutes, hereby warn all persons against entering the waters of Behring's Sea within the dominion of the United States for the purpose of violating the provisions of said section 1956, Revised Statutes; and I hereby proclaim that all persons found to be, or

to have been, engaged in any violation of the laws of the United States in said waters will be arrested and punished as above provided, and that all vessels so employed, their tackle, apparel, furniture, and cargoes, will be seized and forfeited.

In testimony whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this 15th day of February, 1892, and of the Independence of the United States the 116th.

(Signed) BENJ. HARRISON.

By the President :
(Signed) JAMES G. BLAINE, *Secretary of State*.

No. 232.

Sir G. Baden-Powell to the Marquis of Salisbury.—(Received March 5.)

(Telegraphic.)

Washington, March 4, 1892.

WE have to-day, 4th March, signed our Joint Report.
Unless instructed to remain, we shall leave Washington next week.

No. 233.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received March 7.)

My Lord,

Washington, February 26, 1892.

WITH reference to my telegram of yesterday, I have the honour to inclose copies of the notes exchanged between Mr. Blaine and myself on the subject of the *modus vivendi* therein referred to.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

Inclosure 1 in No. 233.

Sir J. Pouncefote to Mr. Blaine.

Sir,

Washington, February 19, 1892.

ON the occasion of our interview on the 2nd instant, when you handed me the draft of the Behring's Sea Arbitration Convention, which I forwarded to London for the consideration of Her Majesty's Government, you asked me whether they were prepared to agree to a *modus vivendi* for the next fishery season in Behring's Sea. In transmitting the draft of the Arbitration Convention to the Marquis of Salisbury I did not fail to inform him of your inquiry, and I have now received a reply from his Lordship to the effect that Her Majesty's Government cannot express any opinion on the subject until they know what *modus vivendi* you desire to propose.

I have, &c.
(Signed) JULIAN PAUNCEFOTE.

Inclosure 2 in No. 233.

Mr. Blaine to Sir J. Pouncefote.

Sir,

Department of State, Washington, February 24, 1892.

I AM in receipt of your note of the 19th. You therein inform me that Lord Salisbury cannot express any opinion on the subject of the *modus vivendi* until he knows what we desire to propose.

I am glad to hear that Lord Salisbury contemplates a *modus*, for it is obvious that it is impossible to conclude the Arbitration within the time originally set. Indeed, we shall hardly be able to enter upon it. The delays have been much greater on the part of Great Britain than on the part of the United States.

In reply to your inquiry, the President suggests that the *modus* should be much the same as last year in terms, but that it should be better executed. It was very ineffective

last year, for there was a larger number of seals in Behring's Sea taken then than ever before. The vessels had already set out before the *modus* was agreed to, and it was impossible to give them notice in time to avoid their taking seals. Her Majesty's Government did not take such efficient measures as an earlier date this year will render practicable.

If Her Majesty's Government would make their efforts most effective, the sealing in the North Pacific Ocean should be forbidden, for there the slaughter of the mothers heavy with young is the greatest. This would require a notice to the large number of sealers which are preparing to go forth from British Columbia. The number is said to be greater than ever before, and without any law to regulate the killing of seals the destruction will be immense. All this suggests the great need of an effective *modus*. Holding an Arbitration in regard to the rightful mode of taking seals while their destruction goes forward would be as if, while an Arbitration to the title to timber-land were in progress, one party should remove all the trees.

I shall have to ask you to transmit the contents of this note to Lord Salisbury by telegraph. Every day that is lost now entails great trouble upon both Governments.

I have, &c.

(Signed) JAMES G. BLAINE.

No. 234.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received March 9, 11'15 A.M.)

(Telegraphic.)

Washington, March 8, 1892.

THE Acting Secretary of State has to-day delivered to me on behalf of Mr. Blaine (who is unwell) a note on the subject of the renewal of the *modus vivendi*, with a request from the President that I should telegraph it to your Lordship. I accordingly send a full summary:

[For text of the Note see Inclosure 4 in Sir J. Pouncefote's despatch of March 10: *infra*, No. 243.]

No. 235.

The Marquis of Salisbury to Sir J. Pouncefote.

(Telegraphic.)

Foreign Office, March 9, 1892, 6'30 P.M.

I SHOULD wish you to repeat to Lord Stanley your telegram of yesterday, about Behring's Sea.

No. 236.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received March 9, 10'30 P.M.)

(Telegraphic.)

Washington, March 9, 1892.

BEHRING'S SEA Convention sent to Senate yesterday, and referred to Committee on Foreign Affairs.

No. 237.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received March 10.)

My Lord,

Washington, March 1, 1892.

WITH reference to the question of the renewal of the *modus vivendi* in Behring's Sea, I have the honour to inclose copy of the note which, upon receipt of your Lordship's telegram of the 27th ultimo, I addressed to Mr. Blaine on the subject.

I have, &c.

(Signed) JULIAN POUNCEFOTE.

Inclosure in No. 237.

Sir J. Pouncefote to Mr. Blaine.

Sir,

Washington, February 29, 1892.

IMMEDIATELY upon the receipt of your note of the 24th instant, respecting a renewal of the *modus vivendi* in Behring's Sea, and in accordance with the wish therein expressed, I telegraphed its contents to the Marquis of Salisbury.

In that note, after observing that it is impossible to conclude the Arbitration within the time originally set, and that the delays have been much greater on the part of Great Britain than on the part of the United States, you proceed to inform me that in the view of the President the new *modus vivendi* should be much the same as that of last year in terms; that owing to the earlier date this year it could be more effectively executed; but that "if Her Majesty's Government would make their efforts most effective, the sealing in the North Pacific Ocean should be forbidden."

After pointing out "the great need of an effective *modus*," you state that "holding an Arbitration in regard to the rightful mode of taking seals while their destruction goes forward, would be as if, while an Arbitration to the title to timber-land were in progress, one party should remove all the trees."

I have the honour to inform you that I have received a reply from Lord Salisbury to the following effect:—

In the first place, his Lordship states that he cannot in any degree admit that the delays have been greater on the part of Great Britain than on the part of the United States.

As regards the necessity for another *modus vivendi*, Her Majesty's Government consented to that measure last year solely on the ground that it was supposed that there would be danger to the preservation of the seal species in Behring's Sea unless some interval in the slaughter of seals were prescribed both at sea and on land. But Her Majesty's Government have received no information to show that so drastic a remedy is necessary for two consecutive seasons. On the contrary, the British Commissioners on the Behring's Sea Joint Commission have informed Her Majesty's Government that, so far as pelagic sealing is concerned, there is no danger of any serious diminution of the fur-seal species as a consequence of this year's hunting.

Nevertheless, Lord Salisbury would not object, as a temporary measure of precaution for this season, to the prohibition of all killing at sea within a zone extending to not more than 30 nautical miles around the Prybiloff Islands, such prohibition being conditional on the restriction of the number of seals to be killed for any purpose on the islands to a maximum of 30,000.

Lord Salisbury, referring to the passage in your note in which you compare the case to an Arbitration about timber-land from which the trees are being removed by one of the parties, observes that he hardly thinks the simile quite apposite. His Lordship suggests that the case is more like one of Arbitration respecting the title to a meadow. While the Arbitration is in progress, he adds, we cut the grass, and quite rightly, for the grass will be reproduced next year, and so will the seals.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 238.

Sir G. Baden-Powell to the Marquis of Salisbury.—(Received March 10.)

(Telegraphic.)

Washington, March 9, 1892.

WITH reference to the *modus vivendi*, I am of opinion that the taking of one season's limited crop cannot injure the seal herd, but that, although not necessary, the renewal of last year's prohibition and the 7,500 limit would be beneficial.

As the Arbitration Convention conditions ocean rights, I hope that the Canadian Government has warned the British Columbian sealers that the ultimate ownership of the seals taken this year in Behring's Sea depends upon the verdict of the Arbitrators.

The alternatives for the sealers appear to be either to incur the expense of the catch subject to this risk, or to forego, without compensation, one season's catch of, say, 20,000 (in Behring's Sea), on condition that 7,500 instead of 30,000 are taken on the islands, increased numbers of seals in future seasons, and enhanced prices for this spring, being also insured by such restrictions.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received March 14.)

My Lord,

Washington, March 4, 1892.

I HAVE the honour to inclose herewith the Behring's Sea Arbitration Convention, which was signed by Mr. Blaine and myself on the 29th February.

I have, &c.

(Signed) JULIAN PAUNCEFOTE.

Inclosure in No. 239.

Treaty between Her Majesty and the United States of America for Arbitration concerning the Seal Fisheries in Behring's Sea. Signed at Washington, February 29, 1892.

HER Majesty the Queen of the United Kingdom of Great Britain and Ireland and the United States of America, being desirous to provide for an amicable settlement of the questions which have arisen between their respective Governments concerning the jurisdictional rights of the United States in the waters of Behring's Sea, and concerning also the preservation of the fur-seal in or habitually resorting to the said sea, and the rights of the citizens and subjects of either country as regards the taking of fur-seal in or habitually resorting to the said waters, have resolved to submit to arbitration the questions involved, and to the end of concluding a Convention for that purpose have appointed as their respective Plenipotentiaries:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Sir Julian Pouncefote, G.C.M.G., K.C.B., Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States; and the President of the United States of America, James G. Blaine, Secretary of State of the United States;

Who, after having communicated to each other their respective Full Powers, which were found to be in due and proper form, have agreed to and concluded the following Articles:—

ARTICLE I.

The questions which have arisen between the Government of Her Britannic Majesty and the Government of the United States concerning the jurisdictional rights of the United States in the waters of Behring's Sea, and concerning also the preservation of the fur-seal in or habitually resorting to the said sea, and the rights of the citizens and subjects of either country as regards the taking of fur-seal in or habitually resorting to the said waters, shall be submitted to a Tribunal of Arbitration, to be composed of seven Arbitrators, who shall be appointed in the following manner, that is to say: two shall be named by Her Britannic Majesty; two shall be named by the President of the United States; his Excellency the President of the French Republic shall be jointly requested by the High Contracting Parties to name one; His Majesty the King of Italy shall be so requested to name one; and His Majesty the King of Sweden and Norway shall be so requested to name one. The seven Arbitrators to be so named shall be jurists of distinguished reputation in their respective countries.

In case of the death, absence, or incapacity to serve of any or either of the said Arbitrators, or in the event of any or either of the said Arbitrators omitting or declining or ceasing to act as such, Her Britannic Majesty, or the President of the United States, or his Excellency the President of the French Republic, or His Majesty the King of Italy, or His Majesty the King of Sweden and Norway, as the case may be, shall name, or shall be requested to name forthwith, another person to act as Arbitrator in the place and stead of the Arbitrator originally named by such head of a State.

And in the event of the refusal or omission for two months after receipt of the joint request from the High Contracting Parties of his Excellency the President of the French Republic, or His Majesty the King of Italy, or His Majesty the King of Sweden and Norway, to name an Arbitrator, either to fill the original appointment or to fill a vacancy as above provided, then in such case the appointment shall be made or the vacancy shall be filled in such manner as the High Contracting Parties shall agree.

ARTICLE II.

The Arbitrators shall meet at Paris within twenty days after the delivery of the counter-cases mentioned in Article IV, and shall proceed impartially and carefully to examine and decide the questions that have been or shall be laid before them as herein provided on the part of the Governments of Her Britannic Majesty and the United States respectively. All questions considered by the Tribunal, including the final decision, shall be determined by a majority of all the Arbitrators.

Each of the High Contracting Parties shall also name one person to attend the Tribunal as its Agent to represent it generally in all matters connected with the arbitration.

ARTICLE III.

The printed case of each of the two parties, accompanied by the documents, the official correspondence, and other evidence on which each relies, shall be delivered in duplicate to each of the Arbitrators and to the Agent of the other party as soon as may be after the appointment of the members of the Tribunal, but within a period not exceeding three months from the date of the exchange of the ratifications of this Treaty.

ARTICLE IV.

Within three months after the delivery on both sides of the printed case, either party may, in like manner, deliver in duplicate to each of the said Arbitrators, and to the Agent of the other party, a counter-case, and additional documents, correspondence, and evidence, in reply to the case, documents, correspondence, and evidence so presented by the other party.

If, however, in consequence of the distance of the place from which the evidence to be presented is to be procured, either party shall, within thirty days after the receipt by its Agent of the case of the other party, give notice to the other party that it requires additional time for the delivery of such counter-case, documents, correspondence, and evidence, such additional time so indicated, but not exceeding sixty days beyond the three months in this Article provided, shall be allowed.

If in the case submitted to the Arbitrators either party shall have specified or alluded to any report or document in its own exclusive possession, without annexing a copy, such party shall be bound, if the other party thinks proper to apply for it, to furnish that party with a copy thereof; and either party may call upon the other, through the Arbitrators, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance notice thereof within thirty days after delivery of the case; and the original or copy so requested shall be delivered as soon as may be, and within a period not exceeding forty days after receipt of notice.

ARTICLE V.

It shall be the duty of the Agent of each party, within one month after the expiration of the time limited for the delivery of the counter-case on both sides, to deliver in duplicate to each of the said Arbitrators and to the Agent of the other party a printed argument showing the points and referring to the evidence upon which his Government relies, and either party may also support the same before the Arbitrators by oral argument of counsel; and the Arbitrators may, if they desire further elucidation with regard to any point, require a written or printed statement or argument, or oral argument by counsel, upon it; but in such case the other party shall be entitled to reply either orally or in writing, as the case may be.

ARTICLE VI.

In deciding the matters submitted to the Arbitrators, it is agreed that the following five points shall be submitted to them, in order that their award shall embrace a distinct decision upon each of said five points, to wit:—

1. What exclusive jurisdiction in the sea now known as the Behring's Sea, and what exclusive rights in the seal fisheries therein, did Russia assert and exercise prior and up to the time of the cession of Alaska to the United States?

2. How far were these claims of jurisdiction as to the seal fisheries recognized and conceded by Great Britain?

3. Was the body of water now known as the Behring's Sea included in the phrase "Pacific Ocean," as used in the Treaty of 1825 between Great Britain and Russia; and what rights, if any, in the Behring's Sea, were held and exclusively exercised by Russia after said Treaty?

4. Did not all the rights of Russia as to jurisdiction and as to the seal fisheries in Behring's Sea east of the water boundary, in the Treaty between the United States and Russia of the 30th March, 1867, pass unimpaired to the United States under that Treaty?

5. Has the United States any right, and, if so, what right, of protection or property in the fur-seals frequenting the islands of the United States in Behring Sea when such seals are found outside the ordinary 3-mile limit?

ARTICLE VII.

If the determination of the foregoing questions as to the exclusive jurisdiction of the United States shall leave the subject in such position that the concurrence of Great Britain is necessary to the establishment of Regulations for the proper protection and preservation of the fur-seal in, or habitually resorting to, the Behring Sea, the Arbitrators shall then determine what concurrent Regulations outside the jurisdictional limits of the respective Governments are necessary, and over what waters such Regulations should extend, and to aid them in that determination, the Report of a Joint Commission, to be appointed by the respective Governments, shall be laid before them, with such other evidence as either Government may submit.

The High Contracting Parties furthermore agree to co-operate in securing the adhesion of other Powers to such Regulations.

ARTICLE VIII.

The High Contracting Parties having found themselves unable to agree upon a reference which shall include the question of the liability of each for the injuries alleged to have been sustained by the other, or by its citizens, in connection with the claims presented and urged by it; and, being solicitous that this subordinate question should not interrupt or longer delay the submission and determination of the main questions, do agree that either may submit to the Arbitrators any question of fact involved in said claims and ask for a finding thereon, the question of the liability of either Government upon the facts found to be the subject of further negotiation.

ARTICLE IX.

The High Contracting Parties having agreed to appoint two Commissioners on the part of each Government to make the joint investigation and Report contemplated in the preceding Article VII, and to include the terms of the said Agreement in the present Convention, to the end that the joint and several Reports and recommendations of said Commissioners may be in due form submitted to the Arbitrators, should the contingency therefor arise, the said Agreement is accordingly herein included as follows:—

Each Government shall appoint two Commissioners to investigate, conjointly with the Commissioners of the other Government, all the facts having relation to seal life in Behring's Sea, and the measures necessary for its proper protection and preservation.

The four Commissioners shall, so far as they may be able to agree, make a joint Report to each of the two Governments, and they shall also report, either jointly or severally, to each Government on any points upon which they may be unable to agree.

These Reports shall not be made public until they shall be submitted to the Arbitrators, or it shall appear that the contingency of their being used by the Arbitrators cannot arise.

ARTICLE X.

Each Government shall pay the expenses of its members of the Joint Commission in the investigation referred to in the preceding Article.

ARTICLE XI.

The decision of the Tribunal shall, if possible, be made within three months from the close of the argument on both sides.

It shall be made in writing and dated, and shall be signed by the Arbitrators who may assent to it.

The decision shall be in duplicate, one copy whereof shall be delivered to the Agent of Great Britain for his Government, and the other copy shall be delivered to the Agent of the United States for his Government.

ARTICLE XII.

Each Government shall pay its own Agent and provide for the proper remuneration of the counsel employed by it and of the Arbitrators appointed by it, and for the expense of preparing and submitting its case to the Tribunal. All other expenses connected with the arbitration shall be defrayed by the two Governments in equal moieties.

ARTICLE XIII.

The Arbitrators shall keep an accurate record of their proceedings, and may appoint and employ the necessary officers to assist them.

ARTICLE XIV.

The High Contracting Parties engage to consider the result of the proceedings of the Tribunal of Arbitration, as a full, perfect, and final settlement of all the questions referred to the Arbitrators.

ARTICLE XV.

The present Treaty shall be duly ratified by Her Britannic Majesty and by the President of the United States of America, by and with the advice and consent of the Senate thereof; and the ratifications shall be exchanged either at Washington or at London within six months from the date hereof, or earlier if possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this Treaty, and have hereunto affixed our seals.

Done in duplicate, at Washington, the 29th day of February, 1892.

(L.S.)

JULIAN PAUNCEFOTE.

(L.S.)

JAMES G. BLAINE.

No. 240.

The Marquis of Salisbury to Sir J. Pauncefote.

(Telegraphic.)

Washington, March 15, 1892.

I SHOULD wish you to repeat to the Governor-General the telegram I have received from Sir G. Baden-Powell, dated the 9th March.

No. 241.

The Marquis of Salisbury to Sir J. Pauncefote.

(Telegraphic.)

Foreign Office, March 18, 1892.

HER Majesty's Government have had under their consideration, and have consulted the Governor-General of Canada in regard to, the arguments in favour of a renewal of the *modus vivendi* of last year, contained in Mr. Wharton's note of the 8th instant, the substance of which is given in your telegram of that day. The necessity of reference to Ottawa has caused a delay in returning an answer.

The information which has reached Her Majesty's Government does not lead them to believe that, in order to prevent an undue diminution of the number of fur-seals, any necessity exists for the suspension of sealing for another year.

Beyond this question, however, I understand that the Government of the United States consider that, should free sealing be permitted this year, and the United States' claim to jurisdiction in Behring's Sea be upheld by the Arbitrators, they have a right to be protected from the loss that they will have suffered by the sealing operations.

Her Majesty's Government do not dispute that there will be some foundation for this contention when the Arbitration Agreement has been ratified.

But there is this defect in the prohibition of sealing as a remedy, that if the British contention shall be upheld by the Arbitrators, there may be ground for complaint on the part of the British sealers who have been excluded from Behring's Sea.

Further, no security exists that the Arbitrators will have given their decision before the sealing season of 1893 arrives.

As you are aware, there has been an arbitration pending for four years between this country, the United States, and Portugal, which is not yet approaching conclusion.

Serious damage would be caused to the sealing industry by a suspension of hunting for a prolonged period.

As a more equitable arrangement, might it not be agreed that sealing-vessels shall be at liberty to hunt in Behring's Sea on condition that security is given by the owner of each vessel for satisfying the award of damages, if any, which the Arbitrators may eventually pronounce?

No. 242

Lord Knutsford to Lord Stanley of Preston.

(Telegraphic.)

Burningham Street, March 18, 1892.

PLEASE direct the proper port authority at all harbours on the Pacific coast to inform owners who are clearing or have cleared this year for Behring's Sea that Her Majesty's Government and the United States' Government have agreed, subject to the ratification of the Senate, to submit to arbitration the question whether sealers have a right without permission of the United States to seal in the eastern half of Behring's Sea east of the 160° meridian, and that it is possible the sentence of the said Tribunal may be against the present policy of the Government. Moreover, that both Her Majesty's Government and the United States' Government have made propositions for intermediate Regulations restraining the catch of seals in the said waters in case the said Arbitration Agreement should be ratified. Neither the Arbitration Agreement nor any intermediate Agreement have yet been definitively accepted between the two Governments. The ratification of the said Arbitration Agreement, and of any intermediate Agreement, is necessarily a matter of uncertainty, and the Government have to call sealers to posing to seal in the said waters that they may be exposed in consequence of either of the said Agreements.

No. 243.

Sir J. Pouncefote to the Marquis of Salisbury. *—(Received March 21.)

My Lord,

Washington, March 10, 1892.

WITH reference to my telegram of the 2nd instant, I have the honour to inform your Lordship that I called by request at the State Department on Tuesday afternoon, where, owing to the illness of Mr. Blaine, I was received by Mr. Wharton, the Acting Secretary of State, who put into my hands a note, copy of which is inclosed herewith, containing the reply of the United States' Government to my notes of the 29th ultimo and 7th instant respectively, on the subject of the renewal of the *modus vivendi* in Behring's Sea.

Mr. Wharton informed me at the same time that he had been instructed by the President to request me to telegraph the whole of this note to your Lordship.

I pointed out to Mr. Wharton that I could hardly telegraph *verbatim* a note of such great length, and he replied that he thought it would be sufficient to telegraph all the leading arguments contained in the note, which I promised I would do.

I have, &c.

(Signed) JULIAN POUNCEFOTE.

* Substance telegraphed.

Inclosure in No. 243.

Acting Secretary Wharton to Sir J. Paunceforte.

Sir,

Department of State, Washington, March 8, 1892.

I AM directed by the President to say, in response to your two notes of the 29th February and 7th March, that he notices with the deepest regret the indisposition of Her Majesty's Government to agree upon an effective *modus* for the preservation of the seals in the Behring's Sea pending the settlement of the respective rights of that Government and of the Government of the United States in these waters and in the fur-seal fisheries therein.

The United States claims an exclusive right to take seals in a portion of the Behring's Sea, while Her Majesty's Government claims a common right to pursue and take the seals in those waters outside a 3-mile limit. This serious and protracted controversy, it has now been happily agreed, shall be submitted to the determination of a Tribunal of Arbitration, and the Treaty only awaits the action of the American Senate. The judgment of the Arbitration Tribunal cannot, however, be reached and stated in time to control the conduct of the respective Governments and of their citizens during the sealing season of 1892; and the urgent question now is, What does good faith, to say nothing of international comity, require of the parties to the arbitration? If the contention of this Government is sustained by the Arbitrators, then any killing of seals by the Canadian sealers during this season in these waters is an injury to this Government in its jurisdiction and property. The injury is not measured by the skins taken, but affects the permanent value of our property.

Was it ever heard before that one party to such a controversy, whether a nation or an individual, could appropriate the whole or any part of the income and profits, much less the body of the contested property, pending the litigation, without accountability? Usually a Court of Chancery would place a receiver or trustee in charge, and hold the income of the property for the benefit of the prevailing party. You say that Lord Salisbury, rejecting the illustration used by Mr. Blaine, "suggests that the case is more like one of arbitration respecting title to a meadow. While the arbitration is going on we cut the grass; and quite rightly, for the grass will be reproduced next year, and so will the seals."

He can hardly mean by this illustration that, being in contention with a neighbour regarding the title to a meadow, he could by any precedent in the Equity Courts or by any standard of common honesty be justified in pocketing the whole or any part of the gains of a harvest without accountability to the adverse claimant whose exclusive title was afterwards established. It is no answer for the trespasser to say that the true owner will have an undiminished harvest next year. Last year's harvest was his also. If by the use of the plural pronoun his Lordship means that the harvest of the contested meadow is to be divided between the litigants, I beg to remind him that the title of the United States to the Pribyloff Islands has not yet been contested, and that our flag does not float over any sealing-vessel. The illustration is inapt in the further particular that the seals not taken this year may be taken next, while the grass must be harvested or lost.

This Government has already been advised in the course of this correspondence that Great Britain repudiates all obligations to indemnify the United States for any invasion of its jurisdiction, or any injury done to its sealing property by the Canadian sealers. The attempt to make a damage clause one of the Articles of the Arbitration Agreement failed, because Her Majesty's Government would not consent that the question of its liability to indemnify the United States for the injuries done by the Canadian sealers should be submitted. Two extracts from the correspondence will sufficiently recall the attitude of the respective Governments.

In my note of the 23rd July I said: "The President believes that Her Majesty's Government may justly be held responsible, under the attendant circumstances, for injuries done to the jurisdictional or property rights of the United States by the sealing-vessels flying the British flag, at least since the date when the right of these vessels to invade the Behring's Sea and to pursue therein the business of pelagic sealing was made the subject of diplomatic intervention by Lord Salisbury. In his opinion, justice requires that Her Majesty's Government should respond for the injuries done by those vessels, if their acts are found to have been wrongful, as fully as if each had borne a commission from the Government to do the act complained of. The presence of the master, or even of a third person, under circumstances calculated and intended to give encouragement, creates a liability for trespass at the common law, and much more, if his presence is accompanied with declarations of right, protests against the defence

which the owner is endeavouring to make, and a declared purpose to aid the trespassers if they are resisted. The justice of this rule is so apparent that it is not seen how, in the less technical Tribunal of an international arbitration, it could be held to be inapplicable.

"The United States might well insist that Her Majesty's Government should admit responsibility for the acts of the Canadian sealers, which it has so directly encouraged and promoted, precisely as in the proposal the United States admits responsibility for the acts of its revenue vessels. But, with a view to remove what seems to be the last point of difference in a discussion which has been very much protracted, the President is willing to modify his proposal, and directs me to offer the following:—

"The Government of Great Britain having presented the claims of its subjects for compensation for the seizure of their vessels by the United States in Behring's Sea; and the Government of the United States having presented, on its own behalf as well as of the lessees of the privilege of taking seals on the Pribiloff Islands, claims for compensation by reason of the killing of seals in the Behring's Sea by persons acting under the protection of the British flag, the Arbitrators shall consider and decide upon such claims in accordance with justice and equity, and the respective rights of the High Contracting Powers, and it shall be competent for the Arbitrators to award such compensation as, in their judgment, shall seem proper."

In your note of the 17th October you say:—

"I regret to inform you that Her Majesty's Government, after the fullest consideration, have arrived at the conclusion that this new clause could not properly be assented to by them. In their opinion, it implies an admission of a doctrine respecting the liabilities of Governments for the acts of their nationals or other persons sailing under their flag on the high seas, for which there is no warrant in the law of nations. Thus it contains the following words:—

"The Government of the United States having presented on its own behalf, as well as of the lessees of the privilege of taking seals on the Pribiloff Islands, claims for compensation by reason of the killing of seals in Behring's Sea by persons acting under the protection of the British flag, the Arbitrators shall consider and decide upon such claim."

These words involve the proposition that Her Majesty's Government are liable to make good losses resulting from the wrongful action of persons sailing outside their jurisdiction under the British flag. Her Majesty's Government could not accept such a doctrine."

The President cannot believe that, while holding this view of its accountability, the Government of Great Britain will, pending the arbitration, countenance, much less justify or defend, the continuance of pelagic sealing by its subjects. It should either assume responsibility for the acts of these sealers, or restrain them from a pursuit the lawfulness of which is to be determined by the arbitration.

In your note of the 29th February you state that Her Majesty's Government has been informed by the British Commissioners "that, so far as pelagic sealing is concerned, there is no danger of serious diminution of the fur-seal species as a consequence of this year's hunting," and upon this ground Lord Salisbury places his refusal to renew the *modus* of last year. His Lordship seems to assume a determination of the arbitration against the United States and in favour of Great Britain, and that it is already only a question of so regulating a common right to take seals as to preserve the species; by what right does he do this? Upon what principle does he assume that if our claims are established, any diminution of the seals, whether serious or not, during this season, or indeed, any loss of seals, is to be without recompense? In the opinion of the President, it is not consistent with good faith that either party to an arbitration should, pending a decision, in any degree diminish the value of the subject of arbitration or take any profit from the use of it without an agreement to account.

Before an agreement for arbitration had been reached, the prohibition of pelagic sealing was a matter of controversy from the moment of the signing of that Agreement it became, in my opinion, a matter of solid ground.

During the season of 1891, notwithstanding the restrictions resulting from the *modus* adopted, the Canadian sealers took, in the Behring's Sea alone, 28,763 skins, or nearly four times as many as the restricted catch upon our island. This Government is now advised that fifty-one vessels from British Columbia and sixteen from Nova Scotia have sailed, or are about to sail, for the Behring's Sea to engage in taking seals. This large increase in the fleet engaged makes it certain, in the absence of an effective restrictive agreement, that the destruction of seal life during this season by pelagic sealing will be unprecedented, and will, in the opinion of our Commissioners, so nearly destroy the

value of the seal fisheries as to make what will remain of so little value as scarcely to be a worthy subject for international arbitration.

The proposition of Lord Salisbury, to prohibit the killing of seals at sea "within a zone extending to not more than 30 nautical miles around the Pribyloff Islands," is so obviously inadequate and so impossible of execution that this Government cannot entertain it. In the early part of the discussion of the subject of a *modus* for last year this method was tentatively suggested, among others, in conversation between yourself and Mr. Blaine. But it was afterwards, in effect, agreed by both Governments to be inadequate, and was not again referred to in the correspondence. In the Memorandum furnished by you with your note of the 6th June you say, "Lord Salisbury points out that if seal-hunting be prohibited on one side of a purely imaginary line drawn in the open ocean, while it is permitted on the other side of the line, it will be impossible in many cases to prove unlawful sealing, or to infer it from the possession of skins or fishing tackle."

This was said with reference to the water boundary of our purchase from Russia, but it is quite as applicable to the 30-mile zone which he now suggests. The prevalence of fogs in these waters gives increased force and conclusiveness to the point made by his Lordship against an imaginary water-line.

The President cannot agree, now that the terms of arbitration have been settled, that the restrictions imposed shall be less than those which both Governments deemed to be appropriate when it was still uncertain whether an early adjustment of the controversy was attainable. He therefore hopes that Her Majesty's Government will consent to renew the arrangement of last year with the promptness which the exigency demands, and to agree to enforce it by refusing all clearances to sealing-vessels for the prohibited waters, and by recalling from those waters all such vessels as have already cleared.

This Government will honourably abide the judgment of the High Tribunal which has been agreed upon, whether that judgment be favourable or unfavourable; and will not seek to avoid a just responsibility for any of its acts which by that judgment are found to be unlawful. But certainly the United States cannot be expected to suspend the defence, by such means as are within its power, of the property and jurisdictional rights claimed by it pending the arbitration, and to consent to receive them from that Tribunal, if awarded, shorn of much of their value by the acts of irresponsible persons.

I have, &c.

(Signed)

WILLIAM F. WHARTON.

No. 244.

Sir J. Pouncefote to the Marquis of Salisbury.—(Received March 24.)

(Telegraphic.)

Washington, March 23, 1892.

LAST night I received the reply of the United States' Government to my note embodying the substance of your Lordship's telegram of the 18th instant on the Behring's Sea question. The President requested that it should be telegraphed to your Lordship. The substance of it is as follows:—

The President had given immediate attention to my note, on account of the extreme gravity and urgency of the matter, growing out of the fact that any *modus vivendi* will be made ineffectual for the protection of the interests of the United States by much further protraction, and that, by reason of the impossibility of communicating with the Canadian sealers, immunity will be given to them. These vessels have hastened their departure, as is known, in order to escape notice of any *modus vivendi* being served upon them. Forty-seven vessels have already cleared, and if measures be not taken to stop them, they will pursue the slaughter of gravid female seals to the very shores of the breeding islands. This is a crime against nature. If the arbitration proceeds, the United States' Government expect to be able to show that the larger percentage of the pelagic catch consists of female seals. It is surprising and disappointing, in view of the above, that your Lordship should assume that suspension of such sealing for another year is not necessary, in order to prevent the undue diminution of the seal-herds, and that you should insist that it should continue. If Her Majesty's Government pays so little regard to the contentions of the United States' Government as to refuse to respect them for a single season, the President is unable to understand for what reason it should have been proposed and agreed to by your Lordship to give them the status implied by the agreement to submit them to arbitration. It was open to neither party to disregard the contention of the other from the date of the signature of the above Agreement. It must be

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assumed that the object which the two Governments had in view was the promotion of good-will and peace but; if, while arbitration is pending, the subject-matter is dealt with by either of them on the basis of its own contention only, this purpose is not attained; on the contrary, and even if it should be possible under such circumstances to proceed with the arbitration, a new sense of injury and injustice is added.

If Her Majesty's Government proceeds this season on the basis of its contention as to the rights of the Canadian sealers, no choice remains for the United States but to proceed on the basis of their own confident contention, that pelagic sealing is an infraction of its jurisdiction and proprietary rights. This, in the opinion of the President, constitutes the gravity of the situation, and he is not willing to be found responsible for such results as may follow from an insistence on the part of either Government during this hunting season on the extreme rights claimed by it. The two great Governments interested in the question would be discredited in the eyes of the world if the friendly adjustment of their difficulties, which is so nearly concluded, were to be thwarted, or even disturbed, on account of the paltry profits of a single season. But if your Lordship persists in refusing to join the Government of the United States in stopping pelagic sealing promptly, and insists upon the maintenance of free sealing for British subjects, the question no longer is one of pecuniary loss or gain, but one of honour and self-respect, so far as it affects the Government of the United States.

The United States have proposed to take no profit from the island catch, notwithstanding that their right to take seals on the islands is neither disputed nor involved in the arbitration, and to engage that the take should be limited to the necessities of the natives. Whether with or without indemnity, they are unable to consent that the rights of British subjects in Behring's Sea, which are contested, shall continue to be exercised while arbitration is pending. The President finds it difficult to believe that your Lordship is serious in proposing that bonds against the injury which may be inflicted on the jurisdiction or property of the United States shall be taken by the United States' Government from the owners of about 100 Canadian vessels, and he must decline to discuss a suggestion which only his respect for your Lordship, and his belief that the gravity of this discussion is fully realized by your Lordship, enables him to treat seriously.

In order to secure the proposed bonds, the United States would have to pursue owners upon the sea, and as the condition is to be that "any damages which the Arbitrators shall adjudge" shall be paid by the owners, while no power to adjudge such damages is given to the Arbitrators by the Treaty, the transaction would be of no value to the United States, and without risk to the owners. But however adequate the security offered, the United States' Government cannot consent to have its rights impaired, pending their determination by a Tribunal of Arbitration. The reference in Mr. Blaine's last note to the inconsistency of Her Majesty's Government in denying responsibility for the acts of Canadian sealers was not meant to imply that the United States would be willing to consent to the conversion of their property into a claim for damages, particularly as the Arbitrators cannot determine such a claim unless the Treaty be revised. Your Lordship should bear in mind, whilst making your present proposal, that the fact of the Arbitrators not having jurisdiction as to damages is the result of concessions made by the United States' Government to your views.

The President fails to see how claims can, by law or equity, be brought by subjects of either Power against their respective Governments, on account of restraints imposed with a view to the promotion of the public good or of international peace. There is full provision in the Treaty itself against the suggestion, that the conclusion of the arbitration will not be reached before the season of 1893. As to the Delagoa Bay Arbitration, your Lordship is in error in thinking that it has been proceeding for four years. It dates from a period of less than one year ago. If the Treaty is promptly ratified, mutual interests will be a sufficient guarantee against delay. The sole obstacle to such a consummation is the prevalent belief, that Great Britain's refusal to preserve the *status quo* of the property, and her insistence on continuance of pelagic sealing during the arbitration, to the injury of the rights of the United States, largely defeats the object for which the Treaty was made.

The note ends with the following words: "The President directs me to say in conclusion, that the *modus vivendi* of last year is the least that this Government can accept. In reason, the restraints after a Treaty of Arbitration should be more absolute, not less. He does not desire to protract the discussion, and having now, in the most friendly spirit, submitted the considerations which support the just demand of this Government, that the property which is now the subject of an agreed arbitration

shall not be subject to spoliation pending the arbitration, he expresses the hope that Lord Salisbury will give a prompt and friendly assent to the renewal of the *modus vivendi*. The President will hear with regret that Her Majesty's Government continues to assert a right to deal with this subject precisely as if no provision had been made for the settlement of the dispute; and in that event, this Government, as has already been pointed out, will be compelled to deal with the subject upon the same basis, and to use every means in its power to protect from destruction or serious injury property and jurisdictional rights which it has long claimed and enjoyed."

No. 245.

The Marquis of Salisbury to Sir J. Pauncefoot.

(Telegraphic.)

Foreign Office, March 26, 1892.

IN reply to your telegram of the 23rd instant.

Notice has been given to the owners of ships sailing for Behring's Sea, that both the Agreements which are at present under discussion between Great Britain and the United States—that as to Arbitration and that as to an intermediate arrangement—may affect the liberty of sealing in Behring's Sea. They have, therefore, notice of their liability to possible interruption, and will sail subject to that notice.

The question of time is not, therefore, urgent.

Inform President that we concur in thinking that when the Treaty shall have been ratified there will arise a new state of things. Until it is ratified our conduct is governed by the language of your note of the 14th June, 1890. But when it is ratified both parties must admit that contingent rights have become vested in the other, which both desire to protect.

We think that the prohibition of sealing, if it stands alone, will be unjust to British sealers, if the decision of the Arbitrators should be adverse to the United States. We are, however, willing, when the Treaty has been ratified, to agree to an arrangement similar to that of last year, if the United States will consent that the Arbitrators should, in the event of a decision adverse to the United States, assess the damages which the prohibition of sealing shall have inflicted on British sealers during the pendency of the Arbitration; and, in the event of a decision adverse to Great Britain, should assess the damages which the limitation of slaughter shall, during the pendency of the Arbitration, have inflicted on the United States or its lessors.

As an alternative course we are also willing, after the ratification of the Treaty, to prohibit sealing in the disputed waters, if vessels be excepted from the prohibition which produce certificate that they have given security for such damages as the Arbitrators may assess, in case of a decision adverse to Great Britain; the Arbitrators to receive the necessary authority in that behalf. In this case the restriction of slaughter on the islands will not, in point of equity, be necessary.

Her Majesty's Government are unable to see any other than one of these two methods of restricting seal-hunting in the disputed waters during the Arbitration, which will be equitable to both parties.

No. 246.

The Marquis of Salisbury to Sir J. Pauncefoot.

(Telegraphic.)

Foreign Office, March 26, 1892.

WITH further reference to your telegram of the 23rd instant.

I am not prepared to admit, as I gather that the President thinks, that we have objected to the Arbitrators having jurisdiction as to damages inflicted in the past by the party against whom the award is given. I only objected to make Her Majesty's Government liable for acts which they have not committed. I am ready to consent to a reference on this point in the following terms:

That in case the Arbitrators shall decide in favour of the British Government, that Government may ask them, further, to decide whether the United States Government have since 1885 taken any action in Behring's Sea directly inflicting a wrongful loss on British subjects, and, if so, to assess the damage incurred thereby.

That in case the Arbitrators shall decide in favour of the Government of the United States, that Government may ask them to decide, further, whether the British Government have since 1885 taken any action in Behring's Sea directly inflicting a wrongful loss on the United States or its lessors, and, if so, to assess the damage incurred thereby.

APPENDIX.

Colonial Office to Foreign Office.—(Received March 2.)

Sir,

Downing Street, March 2, 1892.

WITH reference to previous correspondence, I am directed by Lord Knutsford to transmit to you, to be laid before the Marquis of Salisbury, a copy of a despatch from the Governor-General of Canada, forwarding copy of an Order in Council, to which are appended affidavits taken before the Collector of Customs at Victoria, British Columbia, with regard to certain points in connection with pelagic sealing.

I am, &c.

(Signed) JOHN BRAMSTON.

Inclosure 1.

Lord Stanley of Preston to Lord Knutsford.

My Lord,

Government House, Ottawa, February 10, 1892.

I HAVE the honour to transmit herewith, for your Lordship's information, copy of an Order in Council, to which are appended affidavits taken before the Collector of Customs at Victoria, British Columbia, with regard to certain points in connection with pelagic sealing.

Copy of the Order in Council has been sent to Her Majesty's Minister at Washington for communication to the Behring's Sea Commissioners.

I have, &c.

(Signed) STANLEY OF PRESTON.

Inclosure 2.

Report of a Committee of the Honourable the Privy Council, approved by his Excellency the Governor-General in Council on the 9th February, 1892.

ON a Report, dated the 1st February, 1892, from the Minister of Marine and Fisheries, stating that, upon the receipt of a letter from the Behring's Sea Commissioners, Sir George Baden-Powell and Dr. George M. Dawson, asking for additional documentary evidence regarding certain points which have been put forward among the main indictments of pelagic sealing, he communicated with the Collector of Customs at Victoria, with a view to eliciting information on the following points:—

1. The proportion of seals lost as compared with those hit in pelagic sealing.
2. The proportion of females to males in the number killed in the different fishing seasons.

3. The abstention of Canadians from all raiding on the seal islands.

The appended affidavits, taken before A. R. Milne, Collector of Customs at Victoria, have been received from the following parties:—

- Cereno Jones Kelley, master of the schooner "C. H. Tupper."
- Captain William Petit, master and part owner schooner "Mischief."
- Captain Wentworth Evelyn Baker, master schooner "C. H. Tupper," and formerly master of schooner "Viva."
- Clarence Nelson Cox, master of schooner "E. B. Marvin."
- Captain Alfred Bissett, master of schooner "Annie E. Paint."
- Captain Theodore M. Magnesen, in command of schooner "Walter A. Earl."
- Henry Crocker, hunter on board schooner "Annie E. Paint."
- George Roberts, hunter on board schooner "Annie E. Paint."
- Richard Thomson, hunter on board schooner "Annie E. Paint."
- Andrew Laing, seal hunter.
- William Cox, master schooner "Sapphire."

The Minister recommends that copies of these affidavits be transmitted to the Behring's Sea Commissioners without delay.

The Committee, on the recommendation of the Minister of Marine and Fisheries, advise that your Excellency be moved to forward a copy hereof to the Principal Secretary of State for the Colonies for the information of Her Majesty's Government.

All of which is respectfully submitted for your Excellency's approval.

(Signed)

JOHN J. MCGEE,

Clerk of the Privy Council.

Inclosure 3.

Mr. Milne to Mr. Tupper.

Sir,

Customs, Canada, Victoria, B.C., January 22, 1892.

I HAVE the honour to acknowledge the receipt of your communication of the 7th instant, relative to a joint letter from Sir George Baden-Powell and Dr. George M. Dawson, Behring's Sea Commissioners.

I beg to state that I have endeavoured to supply the information, and herewith transmit the first lot of affidavits of some of the most reliable of our sealing men, and I am continuing to take all I can obtain, which will be forwarded from day to day.

I trust the information is what is wanted, as I have endeavoured to frame the questions so that the answers would show reasons for their intelligent answers on the three questions:—

1. The proportion of seals lost as compared with hit.
2. The proportion of females to males killed in the different months.
3. The abstention of Canadians from all raiding, &c.

I have, &c.

(Signed)

A. R. MILNE, *Collector.*

Inclosure 4.

Depositions taken before A. R. Milne, Collector of Customs, Port of Victoria, B.C.

CERENO JONES KELLEY, master of the Canadian schooner "C. H. Tupper," of Shelbourne, Nova Scotia, having been duly sworn:—

1. *Mr. Milne.*—How many years have you been engaged in sealing, Captain Kelley?—*A.* I have been sealing for two years as master of the "C. H. Tupper."

2. *Q.* Have your voyages been reasonably fortunate, in comparison with those of other vessels?—*A.* About an average.

3. *Q.* Have you gone south of Cape Flattery in hunt for seals?—*A.* Yes, Sir; and have followed the seals all along the coasts of British Columbia to Behring's Sea.

4. *Q.* During last year, to your observation, were the seals as plentiful from the coast to Shumagin Islands as they were the previous year?—*A.* I think there was no material difference.

5. *Q.* Did the seals last year appear to be frightened or more timorous than in previous years on account of the number of vessels?—*A.* I observed no material difference.

6. *Q.* In shooting seals, what is your experience?—*A.* My experience is that unless a seal is mortally wounded—hit in a vital spot—it is practically uninjured, and appears to be as full of vitality as before it was shot. The shot-wounds will rapidly close up, if not made in a vital part, and the seal will swim away as though nothing had happened. The flow of blood stops very quickly, and the seal moves off at a very rapid rate. I picked shot from the bodies of seals, previously wounded in other than a vital part, and the animal in every other way appeared to be in a healthy condition.

7. *Q.* So you believe that a seal when shot, if not mortally wounded, does not sink or seek a place—a rookery, or some place to die?—*A.* A wounded seal will not alter its course in the slightest. It will go along the same as before, its wound healing rapidly, very rapidly, too. It is astonishing how quickly such wounds will heal. I once shot a seal which had been speared by Indians, and the spear had

made an apparently mortal wound. There was a cut about 2½ by 3 inches a little above the side behind the flipper. This wound appeared to have been made about three days previously, and in that time it had healed half an inch all round.

8. Q. Are there more seals shot sleeping than in motion?—A. I should say that the larger proportion of seals are shot whilst sleeping, that is, as far as my own experience goes.

9. Q. What do you consider the vital part of a seal? Where do the hunters aim for generally—the head or the heart?—A. It depends largely upon the position of the seal. The vital parts are in the head, in the vicinity of the heart, and, if a seal is shot so as to bleed internally, the hunters are sure of securing it. The head is the usual mark.

10. Q. What is usually a safe shooting distance?—A. It depends largely upon the circumstances of the case. Somewhere between 10 and 30 yards would be about the distance. I should say that it is the average with sleeping or travelling seals. The sleeping seal is often approached to within even less than 10 yards, but the average is from 10 to 20 yards for sleeping seal, and from 10 to 30 yards for travellers.

11. Q. The seal is very sensitive, is it not?—A. Yes; we have to approach them from the leeward always. Their sense of smell is very acute.

12. Q. Do the seals generally travel far when wounded?—A. That will depend upon where it is wounded. If it is vitally wounded in the head, it will hardly move from its position, for it is likely to die right there, but it will not sink. This is from my own observation. There is only one way that a seal will sink after being shot, that is, when it is shot in such a manner as to be thrown backwards, sinking tail first, thus allowing the air to escape out of its mouth. I might say, further, that I have never seen a seal sink which was shot while sleeping.

13. Q. Will you state the proportion of seals lost as compared with those hit in sealing?—A. My own personal experience during the past two years is that my loss by seals sinking would not average 3 per cent. During last year (1891) I actually lost only two seals out of seventy-seven—that is, I shot seventy-nine, and secured seventy-seven.

14. Q. In hunting seals, what is the direction in which they usually travel?—A. In the spring months they are leisurely travelling towards the north, when they change their position.

15. Q. In hunting seals, have you ever met with pups in the water?—A. Not generally; but during the season of 1890, while off Middleton Island, the hunters reported seeing two seal pups, probably a week old, but they appeared to be only just born.

16. Q. What is your opinion of the proportion of males to females killed during the hunting season? Are there any months in the year when there are more females than males killed?—A. It depends upon circumstances. My experience is that groups of bachelor bulls will travel together, and sometimes groups of females, including barren cows, will travel together, and again groups of yearling pups apparently travel together. That is my experience, and the experience of a number of others. The catch of any schooner coming into contact with groups of bulls, or of females, would be no criterion of the catch of other schooners as regards the number of females. In the year 1890, while in Behring's Sea, one day we took seventy-five seals, and the next day we took eighty, and in the whole of that number I observed only one female, and the hunters particularly informed me that they did not see any female seals at all; that they were all vigorous young bulls.

17. Q. Would anything lead you to think, Captain Kelley, that there is a likelihood of more females than males being killed between here and Shumagin Islands? That is, from January to June?—A. I can safely say that my personal experience has been on the side of the males, largely—both on the coast and in the Behring's Sea the number of seals caught is made up largely of males.

18. Q. Are there any months of the year during which there are more females caught than males?—A. I should say that, as far as my own observation has gone, there is no difference; but in every month, during my voyages, I have had more males than females.

19. Q. Do you know of any Canadian vessels who have raided the seal islands during any year in which you have been engaged in the sealing industry?—A. I have every reason to believe that none of the Canadian fleet have ever raided, or attempted to raid, or made any preparations to raid, any seal islands in the

Behring's Sea. If any such a thing had happened, I should most certainly have heard of it, and I believe it to be true that the American schooners "George R. White" and "Daniel Webster" did raid these islands, as also the "Mollie Adams." That they did raid the seal islands is a fact well known to all Canadian sealers. I also heard that the German schooner "Adele" raided the Pribyloff Islands, which action met with the strong disapprobation of every Canadian sealer.

(Signed) C. J. KELLEY.

Sworn to at Victoria, British Columbia, this 22nd day of January, 1892.

(Signed) A. R. MILNE,
Collector of Customs.

Before A. R. Milne, Collector of Customs, Victoria, B.C., January 23, 1892.

Captain William Petit, present master and part owner of the steamer "Mischief," having been sworn:—

1. Q. (*Mr. Milne.*)—Captain Petit, how many years have you been engaged in sealing?—A. Six years, Sir.

2. Q. Continuously?—A. Yes, Sir.

3. Q. What vessels did you command?—A. In 1886 I commanded the "W. P. Sayward," in 1887 the steamer "Grace," in 1888 the schooner "Sapphire," and in 1889, 1890, and 1891 the "Mary Taylor."

4. Q. Have your catches during these six years been reasonably successful in comparison with other vessels?—A. About an average.

5. Q. You have sealed south of Cape Flattery, have you not, and followed the seals along the coast of British Columbia and into Behring's Sea?—A. Yes.

5*. Q. During last year, to your observation, were the seals apparently as plentiful from the coast to Shumagin Islands as they were in previous years?—A. I found them more plentiful last year than I have any other year since 1886, that is, Cape Flattery, north.

6. Q. How did you find them in Behring's Sea?—A. I found them there in Behring's Sea as plentiful as in former years.

7. Q. Are the seals now more frightened or more timorous than they have been on account of more vessels, or from any other cause?—A. I have seen no material difference.

8. Q. In shooting seals, what is your experience?—A. My experience is that unless a seal is mortally wounded—hit in the head or in the region of the heart—the shot does not appear to injure it.

9. Q. Do you believe that a seal, when shot, and not mortally wounded, does not sink, or seeks some place to die—a rookery, or some such place?—A. No, Sir; a wounded seal will not alter its course in the slightest. It will move along as before, its wound healing rapidly.

10. Q. What do you consider the vital part of a seal? Where do the hunters generally aim for?—A. For the head or the heart; it depends upon the position of the seal, but usually the head.

11. Q. What is the distance at which you shoot seals?—A. It depends upon circumstances.

12. Q. Are more seals shot while sleeping than in motion?—A. There are more shot sleeping, Sir. It is my opinion that the larger proportion of seals are shot while sleeping. The seals taken by the Indians are nearly all killed while sleeping.

13. Q. What is the shooting distance?—A. It depends upon circumstances; 10 to 20 yards for sleepers, and a little more, 10 to 30 yards, for travellers.

14. Q. You have seen the hunters and Indians approach even nearer than 10 yards, have you?—A. Yes, I have seen them approach to within less than 10 feet.

15. Q. When seals are vitally wounded, say in the head, will they move far from the position in which they are shot?—A. No, Sir.

16. Q. They are likely to die right there, are they?—A. Yes, Sir.

17. Q. And they will not sink?—A. With few exceptions, such as when a seal is shot and thrown backwards, thus allowing the air to escape out of its mouth.

18. Q. Will you state your opinion, Captain Petit, of the proportion of seal lost by sinking after being shot?—A. My personal experience during last season with white hunters would not exceed 5 per cent., and with Indians in former years I

doubt if it amounts to even 1 per cent. The reason of this percentage in favour of Indians is because they were caught with a spear, and consequently could not get away.

19. Q. Have you ever seen a seal shot while sleeping sink?—A. I have never known one to sink.

20. Q. Then you are clearly of the opinion that seals will not sink for some time unless thrown backwards?—A. I am. When they do sink, even to 10 or 15 feet, they can be reached with the gaff.

21. Q. When the hunters return to the vessel at night, do they usually discuss their day's proceedings, and particularly mention the loss of seals, when such loss occurs?—A. Yes.

22. Q. Then, Captain Petit, you conscientiously adhere to the statement that the loss by sinking of seals hit will not exceed 5 per cent.?—A. I certainly do; but there are seals hit and not mortally wounded, and these escape, but they are not "lost," as they are quite as vigorous as before, because their wounds heal very rapidly. I have often found shot in the skin.

23. Q. What is your opinion of the proportion of females to males killed during the last hunting season?—A. Last year, out of my catch of 765, I had only 18 females carrying young—not quite $2\frac{1}{2}$ per cent. Of course, as in other seasons' catches, we had a number of barren cows—about the usual run, 10 per cent., and 12 $\frac{1}{2}$ per cent. of grey pups. These grey pups are always bulls, and one year old.

24. Q. Your catch, then, would be about 75 per cent. of males last season?—A. Yes, Sir; including the yearlings it was more than 75 per cent.

25. Q. You say grey pups are always males; will you explain this?—A. The Indians called my attention to this fact years ago, but the reason is not quite known, still it is a fact. I have observed very closely, and have never yet seen a female grey pup one year old. I try to account for this by the supposition that the yearling grey male pups are driven early out of Behring's Sea by the old bulls.

26. Q. Last year, did you hear any remarks about the number or proportion of the males to females caught, from any one or any source?—A. Yes, Sir; I heard that a much larger percentage of males were caught last year than in any former year.

27. Q. I would ask you, Captain Petit, if in any former years there was a similar preponderance of males—do you remember of any such fact?—A. Yes, I do. In 1886, when off Barclay Sound, in one day we had taken 104 seals, of which 3 only were females. In the following year, 1887, when off Portlock Bank, we took 79 in one day, and only 2 females were found in that number.

28. Q. How do seal cows travel? Singly or in pairs?—A. They travel singly or in pairs.

29. Q. How do bulls travel?—A. They travel in bands, so do also the bull pups. They travel singly too.

30. Q. Are female seals carrying young very timid?—A. Yes, Sir; they are. They sink their bodies so that nothing but their noses and eyes are out of water, and are therefore smaller marks for the hunters.

31. Q. Barren cows travel with bulls, do they?—A. Yes, Sir; barren cows usually travel with the bulls.

32. Q. Are there any months in the year during which there are more females than males killed? Any particular time that you have observed?—A. No, Sir.

33. Q. It is your candid opinion that there are more barren cows killed than seal-bearing cows?—A. Yes, Sir; I think there are more.

34. Q. Do these barren cows, from the knowledge you have of seals—do you think that they ever become bearing?—A. I think they do.

35. Q. That they will have periods of bearing?—A. I don't think that a seal will bear before she is 4 years old.

36. Q. How long does a seal carry her young?—A. It is understood to be eleven months.

37. Q. Were there any circumstances occurred to you upon your last voyage which would indicate a marked decrease in the number of seals?—A. None whatever, Sir. On the contrary, I should say there were more. There seemed to be more last year, at least we saw more that year than for several years previously.

38. Q. In your observation as to the habits of the seals, they appear to be like the salmon—that they return from no known cause in larger numbers?—Well, I don't know, Sir; I think that they have their annual migrations; but there is question whether they follow the same track every year. You will find them on some grounds one year, and in other years on other grounds.

39. Q. Do you think that the number of female seals killed in the hunt is materially injuring the reproduction of seals?—A. No, Sir.

40. Q. Can you give a reason for that?—A. From the small percentage of females killed, I don't think it would injure reproduction in any way.

41. Q. Were you in Behring's Sea last year, and were you ordered out?—A. And was ordered out by the United States' ship "Corwin."

42. Q. Before being ordered out, what was your usual fishing distance from land?—A. 60 to 100 miles.

43. Q. You found seals all along that distance from land?—A. Yes, in large numbers.

44. Q. You had the prospects of a fair catch?—A. Yes, Sir; I had the prospects of a very fair catch up to the time I was warned?

45. Q. You consider it a very material loss, being warned at the time out of Behring's Sea?—A. I do, Sir; I consider it a very heavy loss.

46. Q. You still adhere to the statement that the seals between 60 and 100 miles from land were as plentiful as in any previous years in your experience?—A. As plentiful as they were in any year since 1886.

47. Q. Did you observe in your catch in Behring's Sea any preponderance of females over males, or *vice versa*?—A. Yes, Sir; the males were in excess.

48. Q. Can you state from recollection an average day's hunt in Behring's Sea?—A. Forty-eight was about the largest I made while in Behring's Sea.

49. Q. Do you remember hearing any of the hunters speak of losing any seals by sinking?—A. No, Sir; I don't remember any instances of such loss.

50. Q. Did you cross from the American side of the Behring's Sea into the Russian side?—A. No, I didn't, I came straight home to Victoria through Ounimak Pass.

51. Q. During the year, did you hear from any source that any Canadian vessels had raided the seal islands or any of them?—A. No, Sir; I never heard of any British or Canadian vessels, not during the past year, or any year I have been engaged in sealing.

52. Q. Captain Petit, do you believe any of the stories that are told about the "Geo. R. White," the "Daniel Webster," and the "Mollie Adams" raiding these islands?—A. Yes, Sir; I believe those reports.

53. Q. These were all American vessels, were they not?—A. Yes, Sir.

54. Q. During the last two years it is reported that the American schooners "J. Hamilton Lewis," formerly the British schooner "Aida," and the "City of San Diego," raided the Copper Islands?—A. Yes, Sir.

55. Q. Do you believe that is true?—A. I do, Sir; and also in 1886 or 1887, the American schooner "Look-out," raided the Pribyloff Islands, so that the history of raiding the seal islands is peculiarly American, and solely by American schooners.

56. Q. Was not the British schooner "Aida" seized by the American Government and sold?—A. Yes, Sir. In 1887, and renamed the "J. Hamilton Lewis."

57. Q. Is not this same vessel, the "J. Hamilton Lewis," the same vessel as was seized by the Russians this year, in the vicinity of Copper Island?—A. Yes, Sir; and served her right too.

58. Q. If any of the Canadian vessels had raided either the American or Russian seal islands, your long experience in the sealing fleet here would have insured your being aware of it?—A. Yes, Sir; I should certainly have heard of it—learned it from hunters, masters, or seamen. It would have been sure to have leaked out.

59. Q. Is it your opinion that ship-masters or ship-owners have been most careful in instructing their masters or captains to avoid any interference whatever with the seal islands?—A. I have served with different owners, and I have been instructed to carefully avoid approaching the islands within the international limit. In fact, all the sealing I have conducted has been done outside at least of the 20 miles from land.

Mr. Milne.—That will do, Captain Petit. Thank you very much.

(Signed)

WILLIAM PETIT, Master.

Sworn to before me, at Victoria, British Columbia, this 23rd day of January, 1892.

(Signed)

A. R. MILNE,

Collector of Customs.

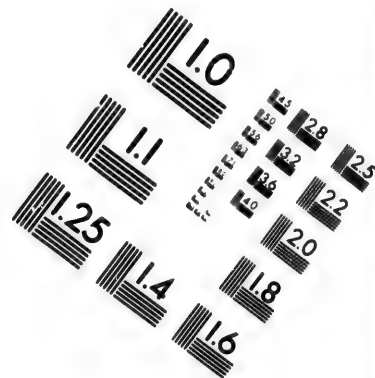
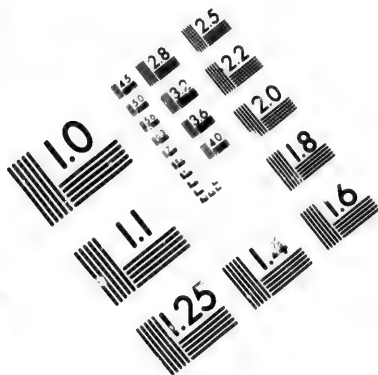
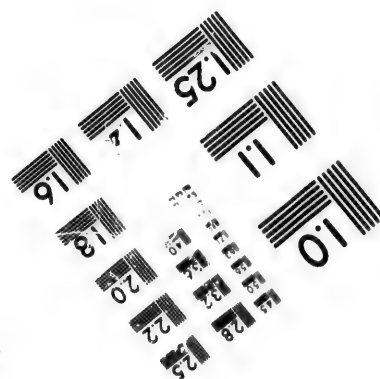
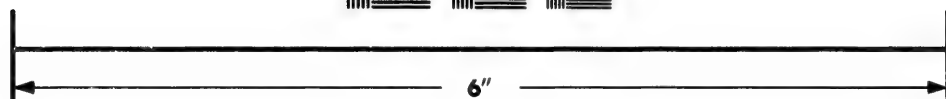
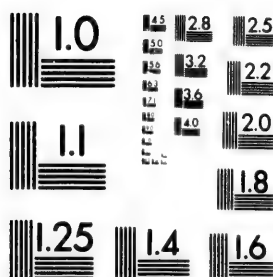


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Before A. R. Milne, Collector of Customs, Victoria, B.C., January 22, 1892.

Captain Wentworth Evelyn Baker, present master of the Canadian schooner "C. H. Tupper," and formerly master of the schooner "Viva," of Victoria, being duly sworn:—

1. *Mr. Milne.*—How many years have you been engaged in sealing, Captain Baker?—*A.* Four years.

2. *Q.* What Canadian schooners have you commanded during those four years?—*A.* The schooner "Viva."

3. *Q.* During the four years have you been more than reasonably successful as a seal-hunter?—*A.* Yes, Sir.

4. *Q.* How many white men would your vessel usually carry?—*A.* Twenty-three, all told.

5. *Q.* You have hunted all along the coast, and also every year in Behring's Sea?—*A.* Every year except 1891. During last year I was always outside of the line of demarcation between Russian and American waters.

6. *Q.* During last year, to your observation, were seals as plentiful along the coast to Shumagin Islands as they were the year before?—*A.* In some places I found them as plentiful; in others I found them more plentiful. In some places where I never found any before I found them last year, and I found none where I had previously found some.

7. *Q.* Then, Captain Baker, you think there is no material difference, on the average, during the four years? That is to your observation?—*A.* I should say, to my observation, there was no material difference.

8. *Q.* Your coast catch last year was equal to that of former years, was it?—*A.* It was equal to the first two years, and better than the third year by almost as many more skins, having 698 skins in 1890, and in 1891 I had 1,260 skins.

9. *Q.* Owing to the number of vessels, do the seals appear to be more timorous?—*A.* Well, I did not find them so, except in some places. It is a great deal owing to the position in which you find them. I found that the nearer the coast the wilder they are, and the further at sea you go they don't seem to be any wilder than previously. I think that what makes them wilder along the coast is the increase of traffic, steamers and so on being very numerous.

10. *Q.* It is said that seal travel in groups of females and groups of bachelor bulls and young bulls—not mixed. Is that so?—*A.* I have always found it so.

11. *Q.* So you think that the number of male or female seals caught would depend entirely upon the schooner falling in with groups of males or females?—*A.* Entirely.

12. *Q.* How is that?—*A.* It is much harder to keep the run of females than of the males or barren cows. Females with young appear to be much more timid, and when you get among them and commence shooting, they disappear very quickly, and show only the nose and eyes above water when travelling, and do not expose their bodies as much above the water as the bulls and barren cows do, as if the maternal instinct to preserve their young was apparent. This fact is well known to all seal-hunters. I have often been in a group of cows with pups during the afternoon, and at night they would all disappear, and, apparently from maternal instinct, they will travel away as quickly as possible.

13. *Q.* Do you consider it more difficult to shoot females, so little exposed as they are, than males?—*A.* It is decidedly more difficult, particularly on the coast.

14. *Q.* You have observed a number of barren females?—*A.* Yes; quite a [?].

15. *Q.* How do they travel?—*A.* Usually by themselves, or mixed with bulls; I have never found a cow with pups among the bulls.

16. *Q.* Have you any idea what the percentage would be of the number of barren cows to the number of seals caught?—*A.* I could not say exactly, but the percentage is considerable.

17. *Q.* What is the accepted theory among the sealers as to the barrenness of cows?—*A.* I don't know as I have heard of any theory—unless they are like other animals.

18. *Q.* When you speak of barren cows, you mean those who have been more than one season barren?—*A.* Yes; because before that they are called pups. The barren cows are those who are old enough to have pups, but didn't.

19. *Q.* You are quite of a clear opinion then, Captain Baker, that there is a considerable percentage of barren cows?—*A.* Yes, Sir.

20. Q. Are there more seals shot whilst sleeping than in motion?—A. Yes, Sir; my experience has been that there are more seals shot whilst sleeping, and that is the experience of most of my hunters, by their report.

21. Q. What do you consider the vital part of a seal?—A. The head or the heart, or in the neck.

22. Q. Do your hunters prefer to shoot the seal in the head?—A. Yes, Sir; on account of preserving the skin, and also that, the moment the seal is shot in the head, the head sinks and the wind cannot escape. Then, if the seal is not killed, the shot will stun it, and its head will drop below water, so that it cannot sink.

23. Q. What is usually a safe shooting distance?—A. For sleeping seals the distance would be about 10 yards, and for travelling seals the distance would be about 10 to 30 yards.

24. Q. Considering that the seals are shot in the head, and the greater portion whilst sleeping, will you state the proportion of seals lost, as compared with those hit, in sealing?—A. The proportion is very small, because, as the usual distance for shooting is about 10 yards for a sleeping seal, we most always kill them instantly, and being so near the seal—even if they are inclined to sink—they are gaffed before they have time to sink. If they even did sink 15 feet, say, we could catch them, as when sinking they go very slowly. The only time I know of when a seal is likely to sink is after it has been chased around in the boats and winded, then shot again, so as to be thrown backwards, allowing the wind to escape from its mouth, when it sinks tail first. Every boat is supplied with a long pole, about 15 feet, and a spear and gaff on the end, so that we can reach that distance. It is very seldom that a seal will get away. I would say, therefore, from personal experience, that the percentage of loss, as compared with those hit in sealing, would not exceed 3 per cent. Last year I killed, myself, on the coast, fifty-five seals, and out of that number I lost only one by sinking.

25. Q. As a general thing, is the percentage of loss more now than it was four years ago, or is it smaller?—A. From personal experience, I think about the same, and from the reports of the hunters I should judge it was the same, as they all report their experiences on their return to the vessel each night, and when a seal is lost it is always spoken about. From a record kept by hunters during two voyages the aggregate loss by each hunter is shown, and the percentage is not greater, on an average, than 3 per cent.

26. Q. How many hunters do you usually carry?—A. Six; and I hunted myself. The ship's company consists of twenty-three persons.

27. Q. What size shot do you use in shooting seal?—A. No. 2 buck-shot, or "S" Canadian shot; and the guns are of the very best material and very expensive, costing from 70 to 100 dollars.

28. Q. What do you think is the proportion of females to males in the number killed in the different months of the fishing season?—A. I don't know, I am sure. It depends upon circumstances. My experience last year was very largely on the bull side on the coast; that is, the proportion taken were largely male seals. I can conscientiously say that it must have been three bulls to one female, and I had a larger number of seals than any other vessel on the spring catch.

29. Q. In the Behring's Sea, to your observation, were the males or females in the preponderance?—A. My experience is that they are very much as they are on the coast. Sometimes I would meet with groups of all bulls, and again with groups of all cows.

30. Q. While in Behring's Sea last year, what would be your usual sealing distance from the land?—A. I was not in Behring's Sea last year, but in previous years it would be from about 30 to 90 miles from land. The usual distance is about 60 miles. Sometimes we are inside of that, sometimes outside of it.

31. Q. Last year, I understand you to say, Captain Baker, you were not in the Behring's Sea on the American side?—A. No.

32. Q. Do I understand you to say that on the Russian side the same observations will apply to the habits and shooting of seal as on the coast?—A. Precisely the same as to their grouping and habits.

33. Q. During the four years that you have been sealing, Captain Baker, I would like you to state explicitly if you saw or heard of any Canadian vessels raiding the American seal islands?—A. No, Sir. To my knowledge I have never heard of any, and I have every reason to believe that there has never been any Canadian schooner raiding any of them.

34. Q. If anything like this had happened, you would have heard of it?—
A. Most certainly I would have.

35. Q. You have never heard any information of any of our sealers conniving to raid the seal islands?—A. I never did.

36. Q. Two years ago it was reported that some American schooners had raided seal islands. Did you hear such a report?—A. Yes, Sir; I heard a report that certain American schooners had raided these islands. The "Geo. R. White," "Daniel Webster," "Mollie Adams," and for two years the "J. Hamilton Lewis," have been raiding the Copper Islands on the Russian side, and it is reported that the American schooner "City of San Diego" also raided the Copper Islands last year.

37. Q. You have heard of the German schooner "Adele" raiding these islands?—A. Yes; in 1889, with poor success. These illegal acts meet with the strong disapprobation of every Canadian sealer.

38. Q. And if Canadian sealers had done acts of that kind, you think it would most certainly have leaked out?—A. It most certainly would have.

39. Q. You are quite satisfied, then, that not a single Canadian schooner at any time has raided the seal islands?—A. Not to my knowledge. I don't know of one single case.

40. Q. What was your entire catch last season?—A. 1,991 for the whole season.

41. Q. Giving your opinion in confidence, what is your opinion of the seals on the coast and in Behring's Sea? Are they decreasing or increasing?—A. From my experience, I have not seen any decrease, but I have noticed also that they change their grounds from time to time, and where you find them this year you may not find them the next. This was very remarkable during the year 1890, for the seals were all found to the eastward of Pribyloff Islands, while in former years they were found to the westward.

42. Q. When did you find them to the eastward of St. Paul's Island? I understand you to say that you found them very numerous?—A. More so than I ever did before.

43. Q. Have you any opinion to offer as to the return of the seals to the coast last year?—A. I have no direct opinion, but certainly the seals were more plentiful on the northern coast last year than the previous years.

(Signed) W. E. BAKER, Master.

Sworn to before me, at Victoria, British Columbia, this 2nd day of January, 1892.

(Signed) A. R. MILNE,
Collector of Customs.

January 19, 1892.

Clarence Nelson Cox, master of the schooner "E. B. Marvin," of Victoria, examined by Collector Milne:—

1. Q. What vessels have you commanded on this coast and in Behring's Sea, Captain Cox?—A. I have been two years master of the "Triumph," and one year mate of the "Sapphire" with my brother.

2. Q. This makes your fifth or sixth year?—A. This makes my fourth year. I was in Behring's Sea so late last year; that is probably why it may seem I have been out oftener than others.

3. Q. The inquiry, Captain Cox, is to elicit, first, the number of seals lost by being hit. It is alleged that you lose a large proportion of those that are shot, and we wish to get at the facts. Also to establish the number of females caught during the last and previous years, and also to investigate if there were any Canadian sealers raiding the seal islands. In the spring of the year, when you leave port, you go down to meet the seals along the coast?—A. Yes.

4. Q. I have been given to understand that the seals travel in bands?—A. Yes; all the cows together, and all the bulls together, and the grey pups together.

5. Q. I suppose they are quite distinctly separated?—A. Yes; we get the grey pups closer to shore, always inside of the large seals.

6. Q. As a matter of fact, you do not find many female seals bearing young

travelling with the bull seals?—A. I have never seen them in company together. I have found the barren cows and bulls in company.

7. Q. This separation is from natural selection, or instinct?—A. Yes; while carrying their young they are never found with the bulls. The barren cows occasionally do travel with the bulls.

8. Q. During what months have you found more females carrying young as compared with other months of the sealing season?—A. In the winter, when we first go out—February, March, and April.

9. Q. That is, both bearing cows and barren cows too?—A. No; bearing cows. There are also grey pups about at that time.

10. Q. What do you mean by "grey pups"?—A. The yearling seal. After that it is called a "brown pup," then a "two-year-old."

11. Q. Along the coast, from the time you strike them in the spring, do you shoot the larger proportion of the seals sleeping, or are there more shot while travelling?—A. Yes; the larger portion of the seals killed during the season are shot while sleeping.

12. Q. You say you find the bearing cows travelling continually?—A. If the weather is rough, they are travelling, but if fine, they are usually seen sleeping or resting.

13. Q. Is it a fact that the females with young swim low down in the water?—A. Yes; the bulls and barren cows keep their heads well up, looking around.

14. Q. When you come upon a group of seals, your catch, then, will depend upon whether the group is composed of males or females?—A. Yes; very much.

15. Q. As a matter of experience, Captain Cox, have you come upon more groups of males than of females during the last year, say?—A. I have caught more bulls the last season—a great deal more. I had 848 seals coming up the coast before entering Behring's Sea, and of these about 75 per cent. would be males.

16. Q. Have you any private opinion as to the reason of this preponderance of the males last year as compared with previous years?—A. I cannot account for it. In fact, I could hardly advance any idea of the cause. I get the most of them from Queen Charlotte Island coast northwards.

17. Q. You think, though, with some of the other sealers, that at about May the cows are well in advance, going to Behring's Sea, to the breeding grounds, consequently the males would be left behind?—A. That is the only reason I can see for it, because we get very few females "with pup" in May.

18. Q. What do you consider a sufficient shooting distance, that is sufficiently close range, for sleeping seals?—A. A great many are shot inside of 15 yards. I think about 15 yards.

19. Q. As a professional sealer, what is your honest and candid opinion about the percentage of seals lost, that is, the number lost after being hit—those that sink?—A. With the Indian hunters it would not amount to one in a hundred. They kill with the spear, and I know it would not amount to 1 per cent. I was only one season with Indian hunters. Last year I had whites. I do not think the loss would be more than 4 or 5 per cent. with shooting by the white hunters.

20. Q. The spear of the Indian sealer is barbed, is it not, and fastens in the animal?—A. Yes, it has two barbs, and a line attached, so that they are sure of their seal unless their line breaks, or the spear is not stuck in far enough to hold, neither of which happens often.

21. Q. You can quite confidently state that the loss of seals killed by white hunters would not exceed 4 or 5 per cent.?—A. I can.

22. Q. This you base upon your own personal knowledge?—A. Yes.

23. Q. How many of a crew do you carry on your vessel?—A. Six boats, that is, six hunting boats, and a stern boat, seven in all.

24. Q. Your ship's company would be how many?—A. Twenty-three men.

25. Q. And the number of hunters?—A. Six hunters, or, counting the stern boat, seven hunters.

26. Q. Your catch last year was how many skins?—A. On the coast, 848 skins.

27. Q. Of that number, how many would be breeding seals?—A. I do not think there would be more than 15 per cent.—about 126 female skins.

28. Q. What percentage of them would be barren female skins?—A. About 10 per cent.

29. Q. Is the percentage of bearing cows greater than of barren cows?—A. Yes; every year in my experience there have been more bearing cows than barren.

30. Q. About 15 per cent., then, would be bearing cows, and 10 per cent. barren ones?—A. Yes.

31. Q.—You stated that it would entirely depend upon the groups you struck along the coast whether you got males or females?—A. Yes.

32. Q. And you base your figures upon four years' experience?—A. Yes.

33. Q. Then you know the percentage of bearing cows would be 15 per cent., and the barren cows 10 per cent.?—A. Yes. The first year I was with my brother I believe we had not more than 10 per cent. of cow seals; one of our seasons we had at least 90 per cent. bulls.

34. Q. That statement applies to Behring's Sea?—A. Yes.

35. Q. What year was that?—A. 1889, when I was with my brother as mate of the "Sapphire." The catch on the coast up to Behring's Sea was about 90 per cent. bulls.

36. Q. In the Behring's Sea, what percentage of females had you, as compared with males—I am told there are less bulls?—A. I think the percentage of bulls in Behring's Sea is less than on the coast.

37. Q. Bachelor bulls?—A. Yes. The greater percentage would be cows—bearing cows; after they have dropped their young we don't get them in Behring's Sea.

38. Q. Do you not find a lot of bachelor bulls hovering about the outskirts of the groups of seals?—A. Yes, we get some, but there are more females in Behring's Sea.

39. Q. Did you find it so last year?—A. Of course I was not in Behring's Sea long enough to know.

40. Q. Your remarks, then, would not apply to last season?—A. No.

41. Q. You think there would be about an equal number of cows and bulls in Behring's Sea?—A. Yes; I think that the bulls and cows are about equally divided.

42. Q. It is well known among sealers that the old bulls keep their herds, and drive the "bachelor" bulls off?—A. Yes.

43. Q. Do you find many groups of bachelor bulls in Behring's Sea?—A. We do not find them so much in groups as on the coast.

44. Q. Taking your whole catch for the past year, skin for skin, what percentage of females had you?—A. We had not more than 25 per cent. barren and bearing cows. That would leave us about 75 per cent. bulls.

45. Q. 25 per cent. females, including barren cows?—A. Yes.

46. Q. In the years before last would that percentage hold good?—A. I think the previous years would not differ very much.

47. Q. In the months of February, March, and April you think that the females killed are more numerous than in Behring's Sea?—A. I think so. We get a great many more grey pups in the winter.

48. Q. Among all the hunters it is pretty well known that the average of loss by being hit would not exceed 3 to 5 per cent.?—A. Yes; that is well known.

49. Q. Wounding a seal so it escapes, you don't consider that lost?—A. No; they carry a lot of shot, and the hunters don't just shoot at it and leave it if it does not die on the spot, but give chase, and if wounded badly it has not much chance of getting away.

50. Q. Considering the hazardous occupation of sealing, the men get very expert in it?—A. Yes; I have a man aboard who does not lose five seals during the whole season.

51. Q. Is it your opinion that the female seals with young are somewhat timid, and more on the alert than the old bulls?—A. Yes; they are.

52. Q. That is one reason why the percentage of females is so small, I suppose?—A. Yes.

53. Q. In Behring's Sea you say the percentage of loss would be more than on the coast?—A. I think the percentage of loss in Behring's Sea is less than on the coast, because the sealers get more seals asleep in the sea. They seem to be right at home there, and not travelling about so much.

54. Q. Have you at any time known any of our vessels (that is, Canadian vessels), registered Canadian vessels, landing on the seal islands for the purpose of raiding and killing seals?—A. I can conscientiously say that I have never known of any of our vessels landing there.

55. Q. And have never heard our masters or sailors encourage that sort of practice?—A. No.

55. Q. Have you heard of any vessel having done so?—A. Yes; I have.
 57. Q. What vessels?—A. The "Mollie Adams," "George R. White," and the "O. S. Fowler," of San Francisco, I heard, raided the Pribyloff Islands.
 58. Q. That fact is well known to the whole fleet?—A. Yes, Sir.
 59. Q. You were not in Behring's Sea last season?—A. I was in, but didn't stay long; I was ordered out of it.
 60. Q. You left as soon as ordered to leave?—A. I did; came direct home.
 61. Q. Who warned you?—A. The British steamer "Pheasant."
 62. Q. You didn't try to seal after that?—A. No.
 63. Q. Or lowered your boats?—A. I didn't lower any boats after receiving the order.
 64. Q. You have heard of some American schooners raiding Copper Island?—A. I have.
 65. Q. Do you know the McLean brothers?—A. Yes; and the "City of San Diego" here, and the "Webster" and "J. Hamilton Lewis," three American vessels who raided Copper Island.
 66. Q. You have no idea of why the seals were more plentiful along the coast last year than other seasons?—A. I have no idea.
 67. Q. There has been no practical theory advanced as to why last year the seals were more plentiful close in shore than in other years?—A. I have none, except that it is on account of their food fish. The seal follows the food. The earlier those fish strike along the coast, and the closer in shore, the earlier and closer to the coast we get the seals.

(Signed) C. N. COX.

Sworn before me, this 18th day of January, A.D. 1892.

(Signed) A. R. MILNE,
Collector of Customs.

Captain Alfred Bissett, master of the Canadian schooner "Annie E. Paint," of Victoria, British Columbia, being duly sworn, says:—

20. Mr. Milne.—How many years have you been engaged in sealing?—A. Two years; this is my third year—have been master, mate, and hunter.
 21. Q. You have had about average luck?—A. Yes, about the average.
 22. Q. You have followed the seals from south of Cape Flattery north, haven't you?—A. Yes, Sir.
 23. Q. During last year, to your observation, were the seals as plentiful along the coasts as they were the previous years?—A. They were.
 24. Q. Did the seals appear more frightened than usual?—A. I think not; I noticed no difference.
 25. Q. Did you notice last year, or any year, in hunting seals, that the cows travel together by themselves, and the bulls by themselves, in herds?—A. I did notice that the bulls, in a general way, travel together, and the cows together, and small seals, as a rule, pups, travel together.
 26. Q. When hunting, of course, if you struck a band of bulls, the catch that day would be principally bulls?—A. Yes; principally bulls.
 27. Q. Do you think more seals are shot while sleeping than when in motion?—A. Oh, yes; far more, about 80 per cent., I think.
 28. Q. What do you consider a safe shooting distance for a sleeping seal?—A. For a sleeping seal about 20 to 30 feet is a sure distance.
 29. Q. And when they are on the move, what is the distance?—A. Well, from 25 to 30 yards.
 30. Q. What is your opinion of the proportion of seals that are lost after being hit?—A. I think from 3 to 5 per cent. would cover everything.
 31. Q. Where do you aim for, in shooting a seal?—A. I aim for the head.
 32. Q. So when a seal drops his head down, the air is stopped from escaping?—A. Yes; that is the reason we shoot in the head.
 33. Q. During last year did you notice the proportion of females to males killed?—A. From counting the skins, and noticing the seals coming on board the ship, I should form 75 to 80 per cent. were bulls, and the remainder females.

34. Q. Do you know the reason of that?—A. I don't know, unless the cows travel a little faster than the bulls, who follow the coast. I have always noticed that there are more bulls killed on the coast than there are females.

35. Q. Have you ever noticed when the number of females predominate?—A. I hardly know, but I have noticed that during the months of March and April that there were more cows than males in the months of May, June, and July.

36. Q. Can you form any idea, from what you have heard, whether there are more females killed than males?—A. I should say that there are decidedly more males. That is from what I have heard and seen myself. There is no doubt that the low price obtained in London this year is due to the large number of small bull skins taken, the skins of the females being larger and better.

38. Q. During the two years that you have been engaged in sealing have you ever known any Canadian vessel to raid any of the seal islands?—A. No, Sir.

39. Q. If there had been any such thing going on, it would have leaked out?—A. It would certainly have leaked out, and I would have heard of it. It is almost impossible to keep it quiet.

(The above having been carefully read over to Captain Bissett, he corroborates and substantiates the same.)

(Signed) ALFRED BISSETT.

Sworn before me at Victoria, British Columbia, this 18th day of November [sic], 1892.

(Signed) A. R. MILNE,
Collector of Customs.

January 19, 1892.

Captain Theodore M. Magnesen, in command of the schooner "Walter A. Earl," of Victoria, examined by Collector Milne:—

1. Q. How many years have you been sealing in Behring's Sea, Captain Magnesen?—A. Three years; this will be my fourth.

2. Q. You have had very good success last year?—A. Yes, very fair success.

3. Q. Did you notice last year any perceptible decrease in the number of seals compared with previous years?—A. I think they were more plentiful last season than I ever saw them before.

4. Q. Do you mean in Behring's Sea?—A. Yes, both along the coast and in the Sea. The biggest catch I have ever made was last year, on the coast as well as in the Behring's Sea.

5. Q. You have noticed the habits of the seals—how they travel?—A. They travel in batches, the bull seals by themselves, and the cow seals by themselves, and the yearling pups by themselves.

6. Q. As a matter of fact, are there more seals shot while sleeping than while they are travelling?—A. That is hard to say, but I think there are just as many shot while moving as there are sleeping seals.

7. Q. When you shoot seals by sleeping, what is the safe shooting distance?—A. About 25 yards.

8. Q. And when travelling?—A. About 45 to 50 yards.

9. Q. The usual mark you shoot at is the head of the seal?—A. Yes.

10. Q. When hit in the head, the seal does not sink?—A. No; sometimes he does, though, if he is shot when short of wind at the moment, and he will sink if you are too far away to pull it out.

11. Q. You have noticed them sinking?—A. Yes; they generally sink tail first.

12. Q. If the seal is shot in the head, he drops his head, and that confines the breast, and it floats?—A. Yes, that is the way I have accounted for them floating.

13. Q. How many seals, in your experience, do you think a hunter loses out of, say, 100 shot at?—A. I know my head hunter killed 498 seals last year, and 17 of them sunk.

14. Q. That would be about 3½ per cent.?—A. Yes.

15. Q. Do you consider that a fair average on the number of seals lost?—A. As an experienced hunter, I think it is a fair average.

16. Q. Would you say that a man who loses, say, 5 per cent. of the seal he shoots would not be an experienced hunter?—A. He could not lose more than that.

17. Q. Will that percentage of loss apply to the travelling seals as well as to the sleeping seals?—A. Yes, the most of the seals lost are the ones shot by the ones moving or travelling.

18. Q. Your boats carry pole, spear, and gaff?—A. Yes; and if the seal sinks down 10 or 15 feet they are easily recovered.

19. Q. If you were on your oath, now, and heard any one say that for every seal that was killed, male or female, one was lost, you would say it was a misstatement?—A. Yes; that is not so.

20. Q. If any one came here and said that for every seal you hit you killed another seal?—A. That is nonsense.

21. Q. The highest percentage of loss, you say, would be 5 per cent. for sinking seals?—A. Yes; and I may say that I have taken seals with shot in them, dropped out when skinning, and they seemed as strong and healthy as ever.

22. Q. That is to say, that unless you shoot a seal in a vital part, the wound heals quickly?—A. Yes; and unless you hit it hard the seal gets away.

23. Q. You have seen females with young?—A. No; I never saw them carrying their young in the water.

24. Q. Down the coast the seals are pretty well divided, are they not?—A. Yes.

25. Q. The cows travel by themselves, and the bulls by themselves?—A. Yes.

26. Q. Did you say that you have caught more bull seals than cow seals during the season?—A. Yes, along the coast; but when I got up and up I got more bulls than cows.

27. Q. What months have you seen more cows in proportion than other months?—A. In February, March, and April.

28. Q. But even when you see more cows the average of the seals killed is in favour of the bulls, is it not?—A. No; it is about equal.

29. Q. You say the cows travel quicker towards the Behring's Sea?—A. Yes; when we get further up the cow seals seem to leave the bulls behind.

30. Q. Has it always been so?—A. Yes; I have got 181 seals in a day, and not a cow amongst them, but you sometimes get one. I think the average is about one in ninety.

31. Q. You always get more bulls than cows?—A. Yes, up there.

32. Q. How many out of every hundred seals you had on board your vessel last year would be females?—A. I think fully a half of them would be cows.

33. Q. How many of them would be bearing cows, and how many of them would be barren cows?—A. Of bearing cows, I think about 18 or 20 per cent. would be bearing cows. I do not think there would be so many as that. I had 2,000, and I think there would be only about 12 or 14 per cent. with pups; the others would be what are called barren cows, and a lot of them would be dry cows.

34. Q. With the barren cows and the ones bearing young you say would make up about half your catch?—A. Yes; about half and half.

35. Q. The proportion of males and females, though, depends upon the crowds or groups you get into?—A. Yes; it depends upon the band you strike.

36. Q. You never, at any time, had more females than males in any of your catches?—A. No, never.

37. Q. While in Behring's Sea during the last four years had you ever heard of any Canadian schooners "raiding" the Pribyloff Islands?—A. No. I never heard of any of my crew being engaged in such. Several of my crews told me of the American sealers raiding them, but I never heard of a Canadian vessel doing so.

38. Q. If you were bound to make a statement on your oath, you would say you believed no Canadian vessels ever raided the Pribyloff Islands for seals?—A. Not as far as I know.

39. Q. You believe, as a matter of fact, that the owners of Canadian sealers and their masters have never countenanced this raiding?—A. I believe that is the feeling that prevails among them all.

40. Q. You have heard mentioned the names of the American vessels that raided those islands?—A. Yes; I heard of the "Mollie Adams" and "George R. White," but not any others.

41. Q. You have not heard of any others?—A. No; I have not heard of any others.

42. Q. You have heard of vessels raiding the Copper Islands?—A. Yes; I have heard of the "Hamilton Lewis" and "Webster" raiding Copper Island.

43. Q. Those vessels you name are all American vessels?—A. Yes.

44. Q. Manned by American crews?—A. Yes.

45. Q. Have you any recollection of seeing any of those vessels in this (Victoria) Harbour?—A. No.

(Signed) THEO. M. MAGNESEN.

Sworn before me, this 23rd day of January, A.D. 1892.

(Signed) A. R. MILNE,
Collector of Customs.

Henry Crocker, hunter on board the schooner "Annie E. Paint," having been sworn:—

65. Q. How long have you been engaged in sealing?—A. I have been hunting won for three years; this is my fourth.

66. Q. From your observation, do you think that the seals were as plentiful last year as they were during the previous seasons?—A. Yes; from what I saw of them I am sure they were just as many as before.

67. Q. In what months do the female seals seem to be the most plentiful in the sealing-grounds?—A. I believe that from February to May the females seem to predominate in numbers; that is, when the cows are getting heavier with young, they make for the islands sooner than the bulls.

68. Q. Is it more difficult to shoot a female seal than it is a bull?—A. The males are more easily killed than the females, owing to the inquisitiveness of the males, and the females being more shy, and also as they move along the water with only their nose visible.

69. Q. As an experienced hunter, what percentage of loss have you had by seals sinking?—A. It is very rarely that a seal will sink. I have been a whole season and have not had more than half a dozen sink during the whole season.

70. Q. Can you form any estimate of what your loss has been?—A. I would say not more than 3 to 4 per cent.

71. Q. Was the loss last year more than in previous years?—A. I could see no difference.

72. Q. As a reason for the small percentage of loss, you get very near the seals before shooting?—A. Yes, Sir; the usual distance is within about 20 feet to a sleeping seal.

73. Q. If a man has a higher percentage of loss than that, he must be careless, you think?—A. Yes, I should say so, and not a first-class hunter, for there is no necessity for losing a seal.

74. Q. Does your percentage of loss agree with other hunters with whom you have conversed?—A. Yes.

75. Q. So that on the coast and in Behring's Sea the same percentage would apply?—A. Well, on the coast one does not very often sink a seal; but in Behring's Sea, if a cow, having delivered her pups, is shot, she will be more apt to sink, as the blubber is very much thinner. But, on the whole, I think the percentage will not be more than 3 or 4 per cent. of loss.

76. Q. Have you taken notice in hunting whether there are more females than males, or the reverse, taken?—A. There is fully 80 per cent. of bull seals killed off the coast, as well as in Behring's Sea. I think the reason for this is that the younger bulls are driven off by the older ones, who guard their particular herds.

77. Q. In the three years you have been in Behring's Sea has it always been your experience that there were more males caught than females? And in what proportion?—A. I say about the same as this year; I don't see any difference.

78. Q. Does your percentage of females taken agree with that of other hunters with whom you have conversed?—A. Yes.

79. Q. As an experienced hunter, then, you adhere to the statement that for

the whole seasons' catches for the years you have been hunting, that the percentage of seals caught will be about three males to one female?—*A.* Yes; about that.

80. *Q.* Do you include in that statement barren cows?—*A.* Yes.

81. *Q.* Have you any idea or reason of your own why the males come to predominate so much?—*A.* I think it is because the females make for the islands earlier than the young bulls and barren cows.

82. *Q.* Have you ever heard of any Canadian vessels raiding the seal islands?—*A.* No, Sir.

83. *Q.* You have never heard of any Canadian master or owner offering any inducement to hunters to raid the islands?—*A.* No, Sir.

84. *Q.* There has never been any bonus offered you to raid the islands?—*A.* No, Sir; while in Behring's Sea we are always too anxious to get away from the islands.

85. *Q.* If any Canadian vessels had raided the islands you would have likely heard of it?—*A.* Yes. I think it is impossible to keep it as quiet as that.

86. *Q.* You have heard of American vessels raiding the Copper and Pribyloff Islands?—*A.* I have heard it. I have known of the American vessels going into Sand Point just after they had raided the islands, and I was in Sand Point when one vessel was fitted out for the purpose of making a raid.

87. *Q.* The masters with whom you have sealed all seem to have avoided the islands?—*A.* Oh, yes; they keep away from the islands between 50 and 100 miles.

(The foregoing having been read over to the said Henry Crocker, he corroborates and substantiates the whole of the said statements.)

(Signed) HENRY CROCKER, *Hunter.*

Sworn to before me, at Victoria, British Columbia, this 18th day of January, 1892.

(Signed) A. R. MILNE,
Collector of Customs.

George Roberts, hunter on board the schooner "Annie E. Paint," being duly sworn, says:—

55. *Q.* How long have you been engaged as a sealer?—*A.* I have been at seal-hunting for three years, one season as a hunter.

56. *Q.* Were the seals more plentiful last year than in previous years?—*A.* They were just about the same as regards number.

57. *Q.* How do the seals generally travel—in mixed numbers, males and females together?—*A.* The seals travel in bands of bulls and bands of cows, both by themselves.

58. *Q.* What is the proportion of seals lost by sinking after being shot?—*A.* Well, I should say that 3 to 5 per cent. would cover the whole loss. It is not more.

59. *Q.* What is the distance you are off a seal when you shoot, generally?—*A.* Well, from 20 to 30 feet for a sleeper, and for a traveller from 25 to 30 feet.

60. *Q.* What part of the seal do you aim at?—*A.* I aim at the head, as the best place, being the surest.

61. *Q.* Do you think there were any more female seals shot than males last year?—*A.* No; I think there were more males shot; in fact, I think that since I have been engaged in the business there have been more males killed than females.

62. *Q.* What months have you noticed more females than males?—*A.* In the months of March and April there are more females than at any other time. There are more females killed during those months than there are any other time.

63. *Q.* Have you ever heard of any of the Canadian vessels poaching on the seal islands?—*A.* I never did; I would have heard of it if there had been any. I have heard of the American raiders; but I do not know of a single Canadian vessel raiding a seal rookery.

64. Q. If a seal is sinking, does it go quickly or slowly?—A. If it is not too far away it can always be secured, as it does not go too quickly to get it.

(The above having been read to the said George Roberts, he corroborates and substantiates all of the foregoing statements.)

(Signed)

GEORGE ROBERTS, *Hunter.*

Sworn to before me at Victoria, British Columbia, this 18th day of January, 1892.

(Signed)

A. R. MILNE,
Collector of Customs.

Richard Thomson, hunter on board the schooner "Annie E. Painter," being duly sworn, says:—

40. Q. How long have you been engaged in sealing?—A. I have been engaged as a hunter for two years.

41. Q. Were the seals as plentiful last year as they were the previous year, to your observation?—A. Yes; I believe they were.

42. Q. Were the seals apparently harder to approach than they were in previous years?—A. No; I can't say that I saw any difference.

43. Q. How do the seals generally travel?—A. As a rule the bulls travel separately, and quite a distance apart generally.

44. Q. What is your experience in hunting as to the number of seals lost after being hit?—A. I should think from 3 to 5 per cent. would cover all.

45. Q. What is the usual manner in which seals are lost?—A. Well, if the seal is in a certain position and shot so as to allow the air to escape, the seal will be lost. As long as the head sinks below the water first, the seal will not sink. They very rarely sink in any case.

46. Q. You carry a spear on a gaff, don't you?—A. Yes; it is carried to spear the seals when they are going down.

47. Q. From your experience in sealing, you consider that from 3 to 5 per cent. would cover the total loss of seals, after being shot, through sinking?—A. Yes.

48. Q. When you shoot a seal at a distance, and do not shoot them in a vital part, they make off, do they?—A. Yes.

49. Q. You don't consider that lost, then?—A. No; we don't consider the seal lost unless it sinks.

50. Q. Have you handled more males than females during the past two years?—A. I should say more males.

51. Q. Have you any idea of the proportion of males—would there be two males to one female?—A. I should say from 70 to 80 per cent., or about three males to one female.

52. Q. In what months do you consider that there are most females killed?—A. During the months of April and May. There are apparently more females, but not as many as males.

53. Q. You have never known of any Canadian schooners raiding the seal islands have you?—A. I have never heard of a Canadian, but I have of the American.

54. Q. During the time that you have been to Behring's Sea, you would have heard of it?—A. I would certainly have heard of it.

55. Q. You have always sailed out of this port?—A. Yes, Sir.

(The above having been read over to Richard Thomson, he corroborates and substantiates the same.)

(Signed)

R. THOMSON, *Hunter.*

Sworn to at Victoria, British Columbia, before me, this 18th day of January, 1892.

(Signed)

A. R. MILNE,
Collector of Customs.

Victoria, B.C., January 22, 1892.

Andrew Laing, called and examined by Collector A. R. Milne:—

1. Q. You are one of the oldest seal-hunters in the province, Mr. Laing?—A. I have been ten years at it.

2. Q. Your knowledge of sealing really goes beyond the present knowledge of the average sealer?—A. I have had as much experience as any of them; I think I know as much as any of them.

3. Q. Your observations on the west coast extend beyond the advent of the sealing business in Behring's Sea?—A. Yes. I went on the coast in 1871, and have been sealing with natives for the last twenty-one years.

4. Q. You had ample opportunity of observing the life and habits of the seals?—A. Yes.

5. Q. From those observations last year did you notice any perceptible or material decrease in the number of seals?—A. None whatever.

6. Q. It was generally reported last year they were more numerous than the year before?—A. Yes. I think if anything they were a little more numerous than 1890.

7. Q. Does that remark apply to full-grown?—A. To full-grown and mid-sized.

8. Q. What direction do the seals on the coast usually come from?—A. They come from the south, following the herring, which spawn on the west coast and different places, and the seal follow those fish into the shore or far out, as the case may be. The natives get a great number of these seals among a school of herring.

9. Q. What is the usual distance which the natives hunt away from shore?—A. In the spring they will hunt 10 or 15 miles off, later in the season 20 or 25 miles. I have seen them 40 miles from the land.

10. Q. How long does the hunting of the seal on the west coast usually last?—A. Commences in February, or latter end of January, and lasts till the 1st June, when you get more or less seals; you can get a few stragglers in July.

11. Q. And the tendency of the seals is from the south?—A. Yes, following their food fish.

12. Q. You have been down the coast to where you meet the seals in their migration?—A. I have gone down as far as Shoal Water Bay, Columbia River.

13. Q. How do you meet the seals—in large bands or batches?—A. Yes, in schools, from two to twenty in a school.

14. Q. Do they seem to travel in pairs?—A. No, Sir.

15. Q. Do you find in these schools, or bunches, they are all males or females?—A. They are mixed. I remember an instance—I think in 1886—when we got on the coast off Cape Flattery either 104 or 109, am not positive, and out of that there were over 100 bull seals, and the next day we got about 86, and out of that number over 70 were bulls. That was in the year 1886.

16. Q. Would your observation lead you to suppose that your catch would depend entirely upon the group of bulls or females as to which your catch would be composed of principally?—A. As we get amongst them; yes.

17. Q. But taking one year with another—from 1886 to the present time—have you seen any more females killed than of bulls?—A. No, Sir. I think we have got about three males in five, and when we get up about the Bank, about Middleton Island, I think they will average more males than females.

18. Q. When you strike the seals on the coast about 40 or 50 miles from shore, do you find a large proportion of them sleeping?—A. They are generally sleeping. The Indians get none but sleeping seals. I have never been working with Whites.

19. Q. The natives approach the seals very close?—A. Yes; and he comes to the leeward of them, and if there is any sea on they get into the trough of the sea and make no noise. If he went to windward the seal would scent him, and get away.

20. Q. When he gets close enough he throws his spear, and seldom misses?—A. Yes; he don't miss one in ten.

21. Q. And when once his spear is fastened, the seal never gets away?—A. No.

22. Q. If an Indian loses more than what you say, he would not be a good hunter?—A. No good at all. It would not pay to "pack" him.

23. Q. Do the Indians ever shoot?—A. Sometimes. They never shoot if the seal is sleeping.

24. Q. Does that percentage of loss apply to the sleeping seals only?—
A. Yes.
25. Q. You mean by "loss"—what?—A. By sinking.
26. Q. If the seal is wounded so it gets away, you don't consider it lost?—
A. No.
27. Q. If speared and wounded, and scurried off, you don't consider it lost?—
A. Oh, no; not lost.
28. Q. The Indian hunter is very close to the quarry, and rarely misses his aim?—A. Well, he will get within 25 or 30 yards of it.
29. Q. Have you noticed any marked difference in the manner in which the females carrying young travel as compared with the males?—A. The only difference I could see is that they will travel very fast for a little distance, and then turn up and rest.
30. Q. I mean, do they sink their bodies more?—A. No; they do not.
31. Q. Do you think the female is more shy than the male, that is those "with young"?—A. No. I think they are not any more shy. The female is always inclined to be sleepy. The male is always on the watch, and will rise till his head and shoulders are out of the water.
32. Q. One hunter has said that the female lies deep in the water, exposing only a portion of her head?—A. I have never noticed that. When lying asleep one-half of the head is under water.
33. Q. Then you will say that the percentage of loss of the Indian hunters is not more than how many in the hundred?—A. Not more than one in ten; not more than 10 per cent.
34. Q. You say you never hunted with white men until this year?—A. No.
35. Q. If any person made a statement that there is a greater amount of loss than what you say, you would not regard it as correct?—A. I would say it was not correct, with Indian hunters.
36. Q. Your statement is based upon actual experience?—A. Yes.
37. Q. In going down the coast in the spring, in February, March, and April, have you noticed that females are more plentiful than in the following months?—
A. I do not think they are.
38. Q. But as they come from the south, you think they are not?—A. Between January and June, and between the south and the Shumigan Islands, have you noticed any time or place where there were any more females killed than others?—
A. I think in May, I have noticed one thing: you will not find, take one in ninety, you will never find a female pup. Where the female young go to is something that the Commissioners ought to have found out before they came down from the sea.
39. Q. It has been stated that the Indians say there is no such thing as a female grey pup?—A. I have never seen one yet, and cannot account for it, unless the females go one way and the males another.
40. Q. Among all yearling grey pups, there has never been any one known to have found a female?—A. Yes, it is a fact. I have heard a great deal of talk of females having young on the kelp, too, but I don't think that is so. Some hunters report of seeing pups off Middleton's Island, but I think that is impossible.
41. Q. Have you ever seen them cut a pup out of the female seal?—A. Yes; and I have seen the pup so cut out walk or move about the deck of the vessel, and I have tried to raise it. I have also thrown it into the water, and have seen it swim about like a young dog; I have seen it keep afloat for fifteen minutes, as long as the vessel was within sight. On the islands, the mother seal will take the young and force them into the water to teach them to swim. They will never take the water freely themselves for from six weeks to two months.
42. Q. You think they will swim 50 yards probably, or 100 yards?—A. Yes; but don't think they could live continually in the water if they were born in it.
43. Q. When you strike the seals on the west coast, what would you say was the usual distance per day that the seals travel?—A. That is impossible to say; it depends upon their food.
44. Q. That is, they linger longer over good food than otherwise?—A. Yes; I remember in, I think, 1888, where an Indian threw his spear at a seal, and his line broke, it was near the Shumigan Islands, and he took the same seal the next day—we lay to all night—and he recovered his own iron spear-head. That might show the distance they move in, say, a night, because it did not travel far.
45. Q. When you lower your boats two Indians go to a canoe?—A. Yes, and both paddle.

46. Q. The Indian in the bow keeps his spear right before?—A. Yes.
47. Q. And he throws it at the animal, and strikes it where?—A. It makes no difference where they are hit. They try when shooting to hit in the head.
48. Q. When a seal is struck, or wounded, what time does it require to heal?—A. It heals very rapidly.
49. Q. What time does it require to get the seal aboard after it is speared?—A. Not more than two minutes when they spear, and not as long as that when they shoot it.
50. Q. What is the usual length of the sealing-boat?—A. About 20 feet.
51. Q. And the canoe?—A. About 22 feet.
52. Q. Is it not a fact that sealing in these small boats in the stormy spring months is a very hazardous undertaking?—A. Yes.
53. Q. It is commonly reported that our seal-hunters, both Whites and Indians, are more expert than any others on the coast?—A. That is so. They are the most expert.
54. Q. It is said also that unless the weather is very tempestuous nothing will retard them?—A. Yes; they go out every chance they can get.
55. Q. The loss of a full-sized skin meant the last two years how much to the hunter?—A. About 3 dollars per skin.
56. Q. What is the largest number which you ever saw an Indian canoe bring aboard in one day?—A. Forty-eight in one canoe, in Behring's Sea.
57. Q. On the coast, how many?—A. Thirty-four; that is over the average.
58. Q. In leaving the schooner, how far do the hunters, both Indians and Whites, go?—A. They go as far as 10 or 12 miles, sometimes 15 miles, from the vessel, till they can just see the tops of her sail.
59. Q. And this in pretty rough weather?—A. Yes; pretty rough. It might be smooth when they go out, but it often comes on rough before they can get back.
60. Q. In following the seals up the coast in February, March, and April, and May and June, where do you begin to get them in larger numbers?—A. Off Queen Charlotte Islands.
61. At this time, are the females in advance of the males, seemingly hastening to the sea?—A. They get through as soon as they can, the males in advance of the females—they haul out first.
62. Q. Some sealers think the cows go ahead?—A. The males haul out, and each one gets his batch of females, and as the cows come in they make up their herd of females.
63. Q. Have you ever, when with sealers, heard the percentage of loss talked of?—A. No; I have never heard it mentioned with sealers.
64. Q. You speak from your experience with Indians? Your percentage of loss of 1 in 10 would be based on actual experience with Indian hunters?—A. Yes; 1 in 10.
65. Q. You have stated that in the month of May you think there would be more females than in the other months of the season? At that time what part of the ocean would you be?—A. Up off Queen Charlotte Island.
66. Q. You have also stated that the more plentiful the food, the slower the seals travel?—A. Yes; they stay longer where the food is.
67. Q. At the end of any of your seasons, have you actually counted the number of females you had in your cargo?—A. I have never done so.
68. Q. Have you any idea of your last year's catch, what proportion of females you had in the coast catch?—A. I think there would be about 3 males in 5—3 males to 2 females.
69. Q. That applies to the coast catch only?—A. Yes; up to Kodiak.
70. Q. In the Behring's Sea, what proportion would it bear?—A. I think about 4 males in 5—4 males to 1 female.
71. Q. Were you in Behring's Sea last year?—A. The vessel was. The way I account for getting so many males was, during the beginning of July and August, when the females would be ashore nursing their young the greater part of the time.
72. Q. At any time in Behring's Sea, what has been your nearest point of hunting to the seal islands?—A. I have never been closer in hunting than 30 miles—usually 30 to 90 miles off. We got blown in there once, the only time I saw the island; we were within 10 miles of them then.
73. Q. You never saw or heard of any schooners, or spoke any schooner, who made a boast of raiding the islands?—A. None belonging to us. I heard of the

"Webster," "Mollie Adams," the "Hamilton Lewis," and the German schooner "Adele" raiding the islands.

74. Q. All these were American schooners?—A. Yes; except the "Adele."

75. Q. There is no doubt, then, among sealers, that these vessels did actually raid the islands?—A. It has been commonly reported, and I have no reason to disbelieve it.

76. Q. Did any of those vessels at that time belong to Victoria?—A. No; they did not.

77. Q. Can you advance any idea as to when the seals leave Behring's Sea?—A. To the best of my knowledge, about the middle of October.

78. Q. Is it the accepted idea that those seals which leave Behring's Sea in the fall are the same that return in the spring?—A. That is my opinion.

79. Q. You have never heard at any time any inducement ever offered by a captain or sailor from Victoria to ship men or to perform any work with the intention of raiding those islands?—A. Not from a Canadian vessel.

80. Q. It is a fact that every ship-owner and master of Canadian vessels has deprecated the raiding of the islands, that is, have never agreed with it?—A. They do not agree with it at all. Every one I have spoken to are very well satisfied to go into the sea and get their catch legitimately.

81. Q. You think there is ample field for hunting seals without raiding the islands?—A. Yes, I do.

82. Q. Is it your opinion, Captain Laing, that with the increased number of schooners here and in San Francisco, there will be any material injury to the sealing industry?—A. I do not think so.

83. Q. From observations made last year, you are quite of the opinion that the seals were more plentiful than you had ever seen them before?—A. They were more plentiful last year, 1891, than the year before, 1890.

84. Q. Is there any way you can account for that?—A. None whatever, unless it is the same as with any species of fish; some years you get more than others. There is no accounting for it.

85. Q. Referring to the number of females caught in the spring, there are quite a number of the female seals barren, or have never borne young? You have noticed it?—A. Yes; some are barren that have had young, and others that have not borne.

86. Q. When you speak of the proportion of females killed, you mean the barren cows as well as those that are bearing young?—A. Yes.

87. Q. Have you formed any idea of the general average or percentage of females carrying young killed in April and May?—A. I could not form any idea.

88. Q. Nor of barren cows?—A. No, Sir.

89. Q. Would you hazard a statement that all the females, both bearing and barren cows, were certainly less than the male seals taken?—A. Yes; certainly less in number.

90. Q. If any one were to make the bold statement that for every male seal killed there is a female killed, would it be correct?—A. That would not be correct.

91. Q. You have not heard any estimate of the percentage of barren females as compared with the bearing cows killed?—A. There are less of the barren cows killed in the spring than there are in the fall. I don't think that they go as far south as the cows that bear young.

92. Q. You say that in Behring's Sea the males preponderate?—A. Yes.

93. Q. You cannot account for this, you say, except it be that the females are all ashore bearing young?—A. The males we get in the sea are all 3- or 4-year-olds, which the old wigs would not let ashore at all.

94. Q. Are there any "rookeries" along the coast of any extent?—A. I have never heard of one this side of the Shumigan Islands.

95. Q. Year after year, hunting then, do you find them travelling along the same course?—A. Yes, where their food is, from 15 to 35 miles out.

96. Q. Your opinion is that the percentage of loss as compared with those hit would not exceed 10 per cent. with Indian hunters?—A. How do you mean lost?

97. Q. You say a seal hit and not killed is not lost if it escapes?—A. Yes.

98. Q. Then the proportion of loss in proportion to those killed is about how much—10 per cent?—A. It does not exceed that.

99. Q. In the number killed during the different months of the season, what is the proportion of males to females?—A. Three males to two females.

100. Q. As to the abstention of Canadian sealers from raiding the seal islands, you are quite positive that from your knowledge of sealing-vessel owners and masters, you give it as your direct opinion that no Canadian sealers ever raided those islands. You would say so upon oath in Court?—A. They never did to my knowledge.

101. Q. If such a thing had been attempted, it would, as a matter of fact, have leaked out?—A. Yes; it stands to reason the crews would have been unable to keep it to themselves.

102. Q. They would tell it either to their associates on board or after getting ashore?—A. They could not keep it.

103. Q. After the hunters get aboard at night, they usually recount whether they lost any seals, and in speaking of their loss, it would mean those seals that would sink, not those that escape?—A. If they lost any, they would not tell it at all, but if they sunk any, they would speak of it.

104. Q. You are at present a ship-owner, Captain Laing?—A. Yes.

105. Q. You have had great opportunities of hearing from all sources matter relative to the seal fishing?—A. Yes.

106. Has it been noticed that the skins taken last year in the Behring's Sea were smaller than usual?—A. About the same general size.

107. Q. Is it generally known that the seals caught on the Copper Island are better than the average?—A. I have never seen them, but it is reported they are better.

108. Q. It is reported also that seals caught in January, March, and April are better than any in Behring's Sea; they say the fur is better?—A. They say so, but I don't know that you can see any difference.

109. Q. It has been said that the fur of the seals caught during the winter and spring months is light? The fur of all animals in cold climates is thicker in winter?—A. I have never noticed that with seals.

110. Q. A few years ago it was said that the Behring's Sea skins were the best?—A. It has been so reported, but I don't think there is any difference.

111. Q. The "grey pup" of this year will be a "brown pup" next year?—A. Yes; a "2-year-old" or "brown pup."

112. Q. Do the hunters usually follow the grey pups with the same zeal as they do the other seals?—A. They can't tell the difference till they are actually "on top of them."

113. Q. And they are apt to shoot little as well as big?—A. Yes; everything they come across.

114. Q. Were the Indian hunters more successful last year than Whites?—A. No, they were not. It was a "stand off" between them. The only difference is that the Whites will risk more than the Indians.

115. Q. The expensive wages, cost of outfitting schooners, considered, don't you think that 4 dollars per skin a high figure for hunters?—A. It is.

116. Q. How many boats does the average schooner carry?—A. About six and the stern boat.

117. Q. And each boat takes three white men?—A. Yes, a hunter, a boat-puller, and a boat-steerer.

118. Q. The ship furnishes the boat, guns, and outfit?—A. Yes, the whole outfit of guns, ammunition, provisions, wages for the two men, and pays the hunter so much per skin.

119. Q. At the present time, how much per skin?—A. 3 to 4 dollars.

120. Q. With Indian crews?—A. They furnish their own canoe, spears, and outfit; one Indian steers; but the vessel finds them in provisions only. The last two or three seasons some vessels have supplied guns and ammunition.

121. Q. Does the Indian get 4 dollars per skin; does he out of that pay his own boat-helper?—A. Yes, he pays out of his rate per skin. The ship pays the steerer nothing.

122. Q. Therefore, if the Indian crews were as profitable, they are the cheapest; if they get as many skins?—A. Yes, if you can get them.

123. Q. Is the Indian a good hunter, in your experience?—A. Yes, Sir.

124. Q. Bold and intrepid?—A. Yes, when he is in his canoe nothing will scare him. I have seen an old bull seal capsize a canoe, and the Indians would get into it again, bail the water out, and go on hunting as though nothing had happened.

125. Q. Is the Indian lazy, or does he seem anxious to proceed in the hunt from

day to day?—A. In fine weather, yes, but when the sea is "choppy" he would usually rather stay aboard.

126. Q. His canoe is not quite so strong as the sealing-boat?—A. No, not quite.

127. Q. Have there been many accidents among the Indians—loss of life?—A. Not since, I think, 1887, when a schooner foundered with all aboard.

128. Q. Do you think that as the years pass along the Indians, as well as the Whites, get more expert in seal-hunting?—A. Yes, they do.

129. Q. Notwithstanding all the ships in the fleet on the ocean, you would adhere to your statement that you don't think there is any noticeable decrease in the number of seals?—A. Yes; I do not think so. If the vessels had been let alone in Behring's Sea last year, we would have had a bigger catch than any previous year.

130. Q. Do you think, Captain Laing, if they would cease killing seals in the Pribyloff Islands it would increase the number of seals on the coast?—A. I think it would.

131. Q. If the rookeries were undisturbed by anything, you think the seals would be more plentiful?—A. I do.

132. Q. Have you any opinion to offer as to killing seals on the islands doing more harm than anything else?—A. I think the American people are doing more harm by killing seals and interfering with them on their rookeries or seal islands than we hunters do on the coast.

133. Q. You have never heard of any rookery along the coast?—A. I never heard of one. There is a rookery of sea lion off Queen Charlotte Island, but I never heard of any of seals.

(Signed) A. D. LAING.

Sworn before me, this 25th day of January, A.D. 1892.

(Signed) A. R. MILNE,
Collector of Customs.

January 25, 1892.

William Cox, present master of the schooner "Sapphire," of Victoria, called and examined by Collector Milne:—

1. Q. You are engaged in the sealing business, Captain Cox?—A. Yes, I have been master of the sealing schooner "Sapphire" for the last four years.

2. Q. How many boats do you carry in your outfit?—A. I carry canoes and an Indian crew.

3. Q. With the exception of how many white men to navigate?—A. Seven white people I carry for navigating the vessel.

4. Q. The number of Indians?—A. The last two years I have had twenty-eight north to Behring's Sea.

5. Q. And how many canoes?—A. Fourteen canoes.

6. Q. Had you more canoes on the coast?—A. Yes, I have had twenty-four canoes while on the coast.

7. Q. When you finally leave for Behring's Sea, you drop a number of the Indians, and only take about fourteen canoes with you?—A. Yes.

8. Q. Do you prefer Indian crews to white men?—Yes, I do.

9. Q. What are your reasons for the preference?—A. Well, I get along better with them for one thing; there is more honour among them than among the average white crew in this business. They don't make an agreement to-day, and break it to-morrow if they see a chance to make a little more.

10. And they don't quarrel among themselves?—A. No; and you can generally trust them more.

11. Q. They are more profitable too, are they not?—Yes, a little more.

12. Q. They furnish their own canoes?—A. Yes, and spears and boatmen; and it is not such a heavy outfit, but their canoes are light and easily broken by the heavy seas.

13. Q. They are better then aboard a large vessel?—A. Yes, but you have to be very careful—the canoes are "dug-outs" and easily shattered.

14. Q. Apart from getting along easier with the Indians, the experience is

just about the same as with a white crew?—*A.* Yes, the skins cost about the same in the end.

15. *Q.* Do the Indian crews venture out during the stormy weather as much as the white men?—*A.* Yes, almost as freely. I have had the same crew so long now that they will do anything I wish them to do.

16. *Q.* Do you take them down the coast?—*A.* Yes, and up the coast and on into Behring's Sea.

17. *Q.* They spear all their seals?—*A.* The greater number of them, yes, but sometimes shoot; they spear all the "sleepers."

18. *Q.* What proportion do you think they shoot?—*A.* They shoot, probably, twenty out of the hundred; but I think now the fleet is getting so large there are more wake seals, that consequently they did more more shooting with me last year than ever before. They never shoot a sleeping seal.

19. *Q.* Do you think the seals are getting more shy on account of the larger fleet of vessels?—*A.* Yes, they are much more shy.

20. *Q.* Do the Indians approach the seals from leeward?—*A.* No; the Indian always goes "across on the wind;" he pulls up almost in range of it, and goes across the wind. They have a sort of idea that the seal sleeps with one eye open, hence the way they approach.

21. *Q.* When they heave the spear, the barb holds fast?—*A.* Yes; if they strike the seal at all, they cannot lose it.

22. *Q.* Therefore the percentage of seals killed by Indians and lost would be very small?—*A.* I would really count it nothing. If they did lose one by the spear pulling out of the blubber it would not kill the seal, as it heals so quickly again.

23. *Q.* The barb holds them, and they have no chance to sink?—*A.* Yes.

24. *Q.* Therefore the percentage of loss is nothing?—*A.* I would not reckon it anything.

25. *Q.* The loss they make is only when firing at a travelling seal?—*A.* Yes.

26. *Q.* And that loss would be by the animal escaping?—*A.* Yes.

27. *Q.* You would not consider it lost, then?—*A.* No. If not hit in a vital part it is not lost, for the Indian fires at a close range, and there are two in a boat, and almost sure of it before the shot is fired, because they can't sink far before they are right on to it.

28. *Q.* So the percentage of the seals lost by Indian hunters, "sleeping" and not "travelling," would be how much?—*A.* With sleeping seals there is no loss. In travelling seals there are none lost, only in escaping. Last year I saw a great number of seals brought in that had been shot before.

29. *Q.* From personal knowledge and observation, you are satisfied that a flesh-wound made in the seal would heal rapidly and not injure the seal?—*A.* Yes; the shot seems to strike in the fatty parts or blubber, and does not seem to hurt the animal, as it closes over and soon heals.

30. *Q.* In the months of February, March, and April, have you seen a marked number of female seals bearing young killed?—*A.* Yes; in winter there are a number.

31. *Q.* Does that mean "barren" cows?—*A.* No; on the coast we get them "with young." I have not seen many "barren cows" out here in winter.

32. *Q.* During the months of February, March, and April, what would you say was the proportion of males to females?—*A.* I have only done one winter's sealing, and that winter they would be fully one-half females during February and March.

33. *Q.* That is, there would be as many females as bulls and grey pups?—*A.* Yes; I have never seen a female grey pup on the coast. That is a yearling grey female seal; that is corroborated by the Indians. All the yearlings seen by me have been males.

34. *Q.* That is well known, you say, by the Indians?—*A.* Oh, yes. They remark this.

38. *Q.* But there is a larger number of males killed than females in April, May, and June?—*A.* Yes; in those three months we get a larger number of males; bulls from 3 to 4 years old; all about the same size.

39. *Q.* Your opinion is that the females, after the month of May, hasten on to the Behring's Sea?—*A.* Yes.

40. *Q.* Now, from the beginning of the sealing season, when you start out this

time of year (January), till the time you enter Behring's Sea, what is your opinion as to the percentage of female seals, including both bearing and barren cows, killed? What would be the proportion of female seals, including both bearing and barren cows, killed? What would be the proportion of females as compared with the bulls?—*A.* Right up to the Shumigan Islands?

41. *Q.* Yes. Would it be 60 per cent., or 70 per cent., or what?—*A.* Yes, I think it would be about 65 or 70 per cent. of males, and the remainder mixed cows—bearing and barren cows.

42. *Q.* About what percentage of barren cows?—*A.* I think about equally divided: about 15 per cent. of barren and 15 per cent. of bearing cows, and 70 per cent. of bulls, would pretty near represent the catch on the upper and lower coast.

43. *Q.* There is an opinion expressed that a seal pup will not swim; some people say so?—*A.* I have seen three with their dams in the water on the Alaskan coast.

44. *Q.* How far from shore?—*A.* 40 or 50 miles from shore, in the month of June.

45. *Q.* Is it your opinion that they would be born in the water?—*A.* Yes, or on the kelp. Seals mate in the water, sleep in the water, and I have seen pups taken from the dead mother on the vessel, and thrown overboard and swim about awhile in the water. I have watched such pups swim about for half-an-hour or more. They seemed to have no difficulty in swimming.

46. *Q.* You have never seen or heard of a Canadian sealing-schooner attempting to raid the Pribyloff Islands?—*A.* I have never heard of one.

47. *Q.* If such a thing had been done or attempted it would be sure to be known among sealers?—*A.* Yes; it would be impossible to keep it a secret.

48. *Q.* Is it your opinion that our ship-owners and masters have done everything they could possibly do to discourage anything of that kind?—*A.* Yes; everything.

49. *Q.* What has been the general distance you have sealed—the distance from the seal islands?—*A.* From 100 to 140 miles. I was within 80 miles of them last year; that was the nearest I was to them.

50. *Q.* Of course your men on board would, if they had ever been engaged in such raiding of the islands, certainly have told their fellows?—*A.* Yes, it would soon have become known.

51. *Q.* It is well known to all sealers that certain schooners have raided those islands?—*A.* Yes, during 1889 and 1890.

51*. *Q.* Do you remember what their names are?—*A.* Yes; the American schooner "Mollie Adams," "George R. White," and others.

52. *Q.* Do you remember any other schooner raiding the islands?—*A.* Yes; the German schooner "Adele."

53. *Q.* It was well known that it was a German vessel?—*A.* Oh, yes.

54. *Q.* Those American vessels that raided the Pribyloff Islands recruited their crews—where?—*A.* I think the "Mollie Adams" recruited her crew at Gloucester.

55. *Q.* In the United States?—*A.* Yes; she fitted up in Port Townsend, Washington.

56. *Q.* Did you ever hear of any American vessels fitting out at Sand Point to raid the islands?—*A.* I do not remember it.

57. *Q.* Were you ordered out of Behring's Sea last year?—*A.* Yes.

58. *Q.* By whom?—*A.* The British steamer "Porpoise."

59. *Q.* On being ordered out of the Sea, you immediately complied?—*A.* Yes; I came right away.

60. *Q.* Did you lower your boats afterwards?—*A.* I did not. I came right out of the Sea.

61. *Q.* What month was that?—*A.* 9th August.

62. *Q.* Had you not been ordered out, were you in good hunting ground?—*A.* Oh, yes.

63. *Q.* Were the seals plentiful at the time you were warned; that is, as plentiful as you had previously seen them?—*A.* Yes; just as thick as ever.

64. *Q.* What was your catch up to the time you were warned out?—*A.* 2,434 in Behring's Sea.

65. *Q.* What was your coast catch?—*A.* 1,008 on the coast, and 2,434 in the Sea.

66. *Q.* Had you been unmolested for another thirty days your chances were

good for a large catch?—*A.* Yes; our chances were good for quite doubling our catch.

67. *Q.* Your principal ground for sealing you found—where? — *A.* About 100 miles westward of the Islands of St. George and St. Paul. I took 1,000 in four days there.

68. *Q.* During that time, when you were getting seals so quickly, was your percentage of loss greater there than on the coast?—*A.* No; they were very quiet.

69. *Q.* You have stated that, from your personal observation, you think the seals were as plentiful last year as you have ever seen them in Behring's Sea?—*A.* Yes; much more so than I ever saw them before.

70. *Q.* More so at a distance of 100 to 130 miles from the nearest seal island?—*A.* Yes.

71. *Q.* What course would that lie from the Pribyloff Islands?—*A.* About west.

72. *Q.* At the time you were sealing there were there any other Canadian schooners in your company?—*A.* Yes; the "Annie C. Moore," the "Carmelite," and the "Ariel." They had all an average catch.

73. *Q.* Have you ever heard of the McLeans raiding Copper Islands?—*A.* Yes.

74. *Q.* Do you believe they did actually raid them?—*A.* Yes.

75. *Q.* Did you hear the story of their going, with three boats of the "Webster" and "City of San Diego" in a crowd, landing at a passage between the rocks and the mainland of the island, and standing there, where the water was swift, and shooting the seals as they passed through?—*A.* Yes; but they lost a great many. The captain of the "San Diego" said that they didn't get one-tenth of what they shot.

76. *Q.* It is the prevailing opinion among the sealers that the "J. Hamilton Lewis" was seized for landing on the islands?—*A.* Yes; the Russians had been watching her. She was seized for actually raiding the islands.

77. *Q.* You didn't go to the Copper Island side at all?—*A.* I did not.

78. *Q.* In leaving Behring's Sea, where did you come out through?—*A.* Through the Four Mountain Pass.

79. *Q.* After you had been warned out, did you speak any other cutter?—*A.* I did not.

80. *Q.* Did you see any seals from the time you were warned out till the time you came through the pass?—*A.* They were just as thick as ever within 40 miles of the Four Mountain Pass. We were two days sailing through them. It grieved us very much, I can tell you, to sail through seals and couldn't touch them.

81. *Q.* The Four Mountain Pass is about what longitude?—*A.* "172 Pass" we call it.

82. *Q.* But you say there were plenty of seals from the time you were warned out to within 40 miles of this pass?—*A.* Yes; just as thick as where we had left.

83. *Q.* Will you state in direct evidence, as though in Court, that, as far as your knowledge goes, no Canadian sealer, directly or indirectly, ever raided or attempted to raid the seal islands?—*A.* I have had ample opportunity of learning if such had been the case, and I know of none.

Captain Cox, continuing, said: I didn't take one "bearing" female seal last season in Behring's Sea. I have taken a few which were evidently "with milk."

84. *Q.* What percentage do you say?—*A.* There might be 5 per cent. of what I took which had had young; there was evidence of having had young; whether they had last year or not I do not know.

(Signed)

WILLIAM COX.

Sworn before me this 25th day of January, 1892.

(Signed)

A. R. MILNE,

Collector of Customs.